

REGULAR AGENDA

FINAL CONSIDERATION/PUBLIC HEARINGS

The following items are requests for final action and forwarding to the City Commission

5. **Daybreak Medical Addition (Klee)** 23
 - Annexation | ANNX2017-003
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny
 - Future Land Use Plan Amendment (MDR to OMU) | FLUP2017-001
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny
 - Zoning Change (A to Conditional RT and Conditional CA) | ZC2017-005
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny
 - Major Subdivision Final Plat | FPLT2017-004
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny
6. **Meadowlark Commercial Tenth Addition (WH)**
 Minor Subdivision Final Plat | MPLT2017-009 35
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny
7. **Ace Hardware Addition (JW)**
 Minor Subdivision Final Plat | MPLT2017-010 41
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny
8. **Lot 5 and the North 50 feet of Lot 6, Block 1, Gomke Estates (JW)**
 Zoning Change (CA and MA to MA) | ZC2017-016 47
 Apple Creek Township
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny
9. **Multiple Sections Relating to Contextual Front Setbacks in Residential Zoning Districts (DN)**
 Zoning Ordinance Text Amendment | ZOTA2017-007..... 53
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny
10. **Section 14-03-08 Relating to Special Uses / Off-Premise Advertising Signs (DN)**
 Zoning Ordinance Text Amendment | ZOTA2017-008..... 69
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny
11. **Sections 14-09-03 (Definitions), 14-09-04 (Procedure) and 14-09-06 (Improvements) Relating to Regulations Governing the Subdivision of Land (Klee)**
 Zoning Ordinance Text Amendment | ZOTA2017-004..... 73
Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

- 12. Section 14-03-08 Relating to Special Uses / Asphalt and Concrete Production Facilities (Klee)**
Zoning Ordinance Text Amendment | ZOTA2017-010.....103

Staff recommendation: approve

☐ *approve*

☐ *continue*

☐ *table*

☐ *deny*

OTHER BUSINESS

- 13. Other**

ADJOURNMENT

- 14. Adjourn.** The next regular meeting date is scheduled for **October 25, 2017.**

Enclosures: Meeting Minutes of August 23, 2017
 Building Permit Activity Month to Date Report for August 2017
 Building Permit Activity Year to Date Report for August 2017

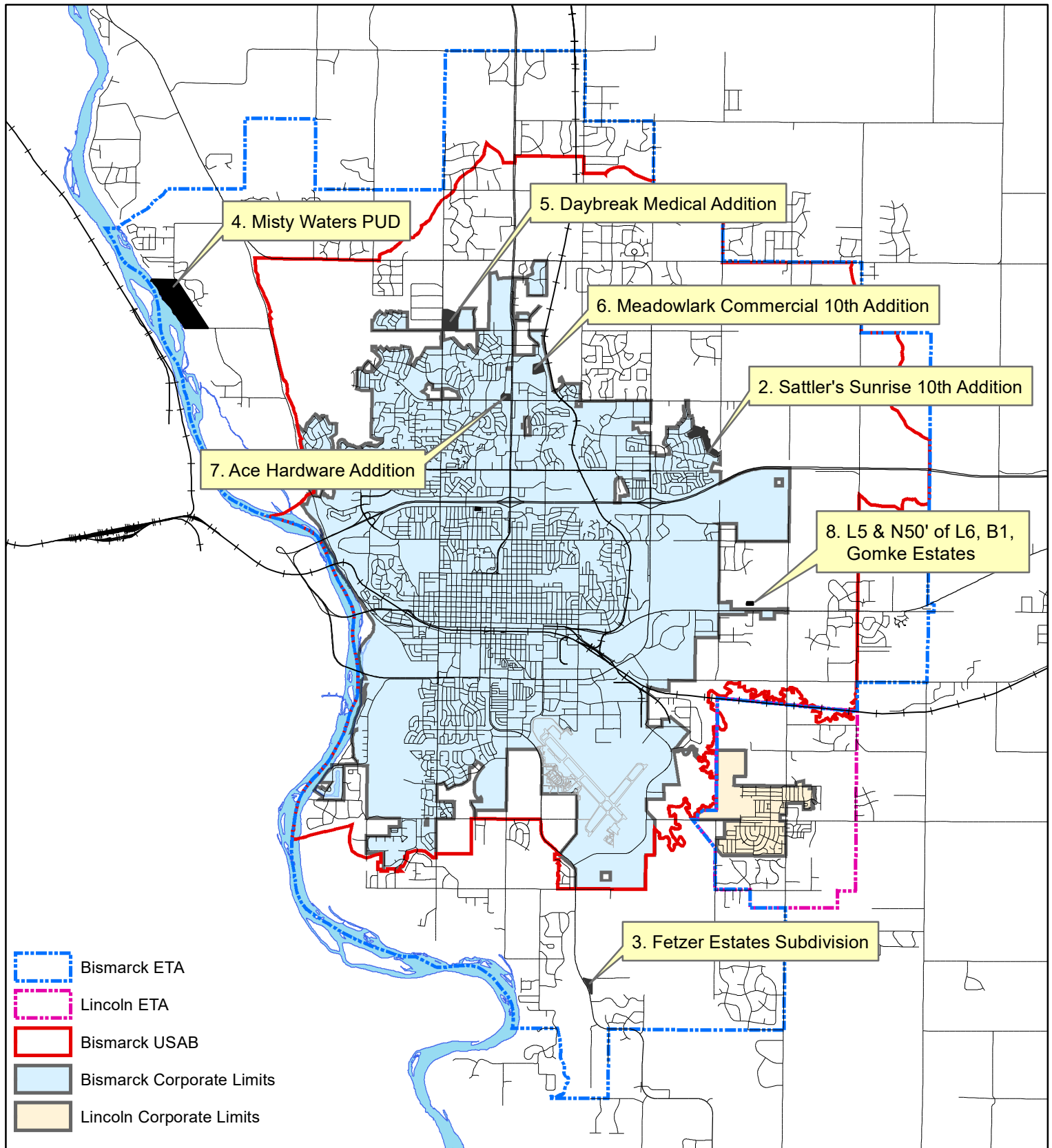
BISMARCK PLANNING AND ZONING COMMISSION PUBLIC HEARING PROCEDURE AND PROTOCOL

All public hearings before the Bismarck Planning and Zoning Commission will follow the same basic format. This outline has been prepared to help you understand the procedure and protocol.

1. The Chair of the Planning and Zoning Commission will introduce the item on the agenda and ask staff to present the staff report.
2. The Planner assigned to the file will present the staff report on the item. The presentation will be an overview of the written staff report included in the agenda packet, which is posted on the City's website by the end of the day on the Friday before the meeting.
3. The members of the Planning and Zoning Commission may ask staff questions about the request itself or staff's recommendation, but they will not discuss the request prior to obtaining input from the public.
4. The Chair of the Planning and Zoning Commission will then open the public hearing on the request and ask if anyone would like to speak to the Commission.
5. The applicant or his or her designated agent is usually given the courtesy of speaking first to outline the proposal and/or clarify any information presented by staff. The applicant may speak at this time or wait until others have spoken.
6. The public hearing is then opened to the public to voice their support, opposition or to ask questions about the proposal. Please write your name and address on the sign-in sheet, step up to the podium, speak clearly, state both your first and last names and your address, then your comments. Speaking over the microphone rather than directly into it will provide the best audio quality. Also, please avoid tapping or banging the podium, as the microphone amplifies the sound. Your comments as well as any materials distributed to the Planning and Zoning Commissioners at this time will be made part of the public record. If you would prefer to provide written materials to staff at the beginning of the meeting, we will distribute the materials to the Commission for you.
7. Please be respectful of the Planning and Zoning Commissioners, staff and others speaking on the request. Personal attacks against the applicant or others, clapping/cheering or booing speakers is not acceptable. Staff and the applicant will only respond to questions from the Planning and Zoning Commissioners, not questions directly from those speaking at the public hearing.
8. Everyone who wishes to speak will be given a chance to speak; however, at larger public hearings, the Chair may ask speakers to limit their time at the podium to five minutes, not repeat previous testimony/comments and only speak once. Members of the Planning and Zoning Commission may ask questions of those speaking, but may also listen and deliberate after the hearing is closed.
9. After everyone in the audience wishing to speak has given his or her comments, the Chair will close the public hearing portion for the agenda item. No additional comments from the public are allowed after the hearing has been closed. At this point, the Chair will ask staff if they have any additional information or final comments.
10. The Planning and Zoning Commissioners will then discuss the proposal. They may ask staff or the applicant additional questions or for clarification of items stated during the public hearing. At the conclusion of the discussion, the Commission will make its recommendation or decision.

General Location Map

Planning & Zoning Commission - September 27, 2017



September 2017

0 4,000 8,000 16,000 Feet

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.





STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

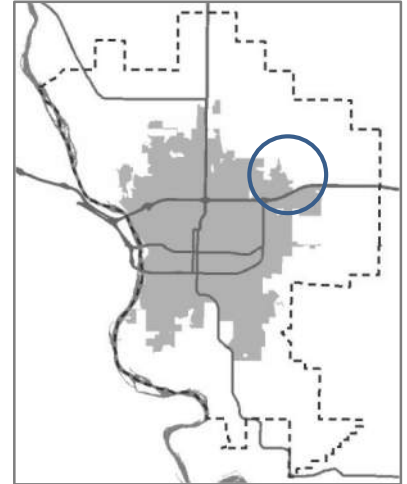
Agenda Item # 2
September 27, 2017

Application for: Zoning Change
Major Subdivision Preliminary Plat

TRAKiT Project ID: ZC2017-017
PPLT2017-006

Project Summary

<i>Title:</i>	Sattler's Sunrise Tenth Addition
<i>Status:</i>	Planning & Zoning Commission – Consideration
<i>Owner(s):</i>	Sattler Family, LLLP
<i>Project Contact:</i>	Jason Petryszyn, PE Swenson, Hagen & Co.
<i>Location:</i>	In northeast Bismarck, north of East Century Avenue and east of Roosevelt Drive.
<i>Project Size:</i>	32.3 acres
<i>Request:</i>	Plat, rezone, and annex property for residential development.



Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	Undeveloped	<i>Number of Lots:</i>	81 Lots in 10 blocks
<i>Land Use:</i>	Vacant Land	<i>Land Use:</i>	Single-family and two-family residential
<i>Designated GMP</i>	Low Density Residential	<i>Designated GMP</i>	Low Density Residential
<i>Future Land Use:</i>	Medium Density Residential	<i>Future Land Use:</i>	Medium Density Residential
<i>Zoning:</i>	A – Agricultural P – Public Use	<i>Zoning:</i>	R5 – Residential R10 – Residential P – Public Use
<i>Uses Allowed:</i>	A – Agriculture P – Parks, open space, stormwater facilities, and other public uses	<i>Uses Allowed:</i>	R5 – Single-family residential R10 – Single and two-family residential P – Parks, open space, stormwater facilities, and other public uses
<i>Max Density Allowed:</i>	A – 1 unit / 40 acres P – N/A	<i>Max Density Allowed:</i>	R5 – 5 units / acre R10 – 10 units / acre P – N/A

Property History

<i>Zoned:</i>	N/A	<i>Platted:</i>	N/A	<i>Annexed:</i>	N/A
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Staff Analysis

The applicant is requesting approval of a preliminary plat titled Sattler's Sunrise Tenth Addition and a zoning change from the A – Agricultural and P – Public zoning districts to the R5 – Residential, R10 – Residential, and P – Public zoning districts for unannexed lands in the east half of Section 24, T139N-R80W/Hay Creek Township. The purpose of the request is to develop single-family and two-family homes. The applicant also intends to annex a majority of the platted area in conjunction with approval of the plat.

Concurrence with Comprehensive Plan

According to the Future Land Use Plan in the 2014 Growth Management Plan, as amended, the area proposed for development is designated Medium Density Residential (MDR), with the exception of a small area designated Low Density Residential (LDR). The MDR classification includes densities ranging from 4 to 10 units per acre, and allows a mix of single-family residential, two-family residential, and potentially limited multifamily residential.

The MDR portion of the plat includes 52 dwelling units on 20.78 acres of land, which results in a gross density of 2.5 dwelling units per acre. This level of density is insufficient. However, the applicant has submitted a master plan for the entire section that shows additional areas proposed for higher-density residences. Taken as a whole, the development would meet the definition of the MDR land use classification.

The 2014 Fringe Area Road Master Plan designated the extension of Calgary Avenue to the east as a future collector roadway. The proposed plat includes this roadway alignment with a sufficient width, and thus meets the intent of this plan.

Right of Way and Curb Type Waiver Request

Section 14-09-05 of the City Code of Ordinances requires a 66-foot right-of-way for all local residential streets, and the ordinance specifies that all curbs should be a standard form, with a sheer vertical face, instead of mountable. However, the ordinance also grants the City Engineer the authority to waive the requirements for good cause, in particular if mountable curb was used in previous phases of a development.

The proposed plat shows 60-foot rights-of-way on all local roadways, and the applicant has indicated that he wishes to utilize mountable curb. Previous additions of Sattler's Sunrise were developed in this way, before ordinance changes were made in 2015 to eliminate the option for mountable curb and the associated reduction in required right-of-way width. The applicant has submitted waiver requests for both provisions.

The local streets are proposed to be 37 feet in pavement width, which exceeds the required 32-foot minimum. No waiver is required for pavement width.

The City Engineer as reviewed the waiver and recommends allowing for the continued 60-foot right-of-way and 37-foot mountable curb street for all roadways south of East Calgary Avenue and west of 52nd Street NE. All roadways north of East Calgary Avenue will be subject to conformance with the current City ordinance. Specific to the proposed Sattler's Sunrise Tenth Addition, this recommendation will allow for the continuation of Maltby Street, Doubleday Drive, Meigs Drive, and Tyndale Drive as originally planned and will provide a clear transition to the required 66-foot right-of-way and standard curb north of the collector roadway East Calgary Ave in future developments.

The City has taken a position in favor of standard curb over mountable curb in regards to better water flow, reduced clogging of stormwater inlets, less erosion potential, and more effective snow plowing operations, among other reasons. The 66-foot right-of-way allows sufficient room in a boulevard for snow storage and healthy tree plantings.

Orderly Development Policy

The City Commission adopted a policy in 2015 to encourage orderly development by requiring any dedication of right-of-way or easement necessary to develop adjacent properties during the development review process. The property owner has already dedicated easements for City water and sanitary sewer through the property being platted to serve adjoining property in different ownership to the north east. City staff considers this sufficient action to satisfy the requirements of this policy.

(continued)

Other Issues

Sattler's Sunrise Tenth Addition is subject to the Neighborhood Park Development policy, as an urban, residential development. The applicant has requested a waiver from this policy, and the Bismarck Parks and Recreation District Board granted this request on August 17, 2017, because the entire new development is already within walking distance of the existing Sunrise Neighborhood Park.

The local street Tyndale Drive extends approximately 840 feet beyond the intersection with Meigs Drive. Because of this distance, a temporary turn-around will be required before any building permits may be issued on this segment of the roadway. Eventually, the master plan shows this street continuing and looping back onto Tyndale Drive. The turn-around may be removed once this road connection is built in future phases.

The Combined Emergency Communications Department expressed concern with some of the street names proposed on the preliminary plat, in particular the use of "Avenue" for streets with a north-south orientation. North-south streets should be labeled as "street" or another appropriate designation.

Non-access lines are shown around most intersections in the plat, although there are a few that were omitted in the preliminary plat. Furthermore, non-access lines adjacent to any intersection of the collector roadway Calgary Avenue should be increased to 60 feet, as required in the City Access Management Policy.

Required Findings of Fact (relating to land use)*Zoning Change*

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;

4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Preliminary Plat

1. All technical requirements for consideration of a preliminary plat have been met;
2. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
3. The requirements of the neighborhood parks and open space policy have been waived by the Bismarck Parks and Recreation District;
4. The proposed subdivision would likely not have a substantial effect on circulation and safety of public roadways in the vicinity, and therefore no traffic impact study is required.
5. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
6. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
7. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would

(continued)

- adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
8. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
 9. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
 10. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the zoning change from the A – Agricultural and P – Public zoning districts to the R5 – Residential, R10 – Residential, and P – Public zoning districts and tentative approval of the preliminary plat for Sattler's Sunrise Tenth Addition, with the understanding that the following issues need to be resolved prior to a public hearing being scheduled for the final plat:

1. The portions of the rights-of-way of Doubleday Drive and Maltby Street north of Calgary Avenue are shown as 66-foot rights-of-way.
2. A temporary turnaround complying with fire apparatus access roadway standards will be installed at the northern terminus of Tyndale Drive before any building permits are issued on a lot north of the intersection of Tyndale Drive and Meigs Drive.
3. Non-access lines are added to the intersections of Calgary Avenue that comply with the City of Bismarck Access Management Policy.
4. Stringham Avenue and Fairchild Avenue are renamed to reflect their north-south orientations.

Attachments

1. Location Map
2. Zoning and Plan Reference Map
3. Preliminary Plat
4. Master Plan for Entire Section

Staff report prepared by: Daniel Nairn, AICP, Planner
701-355-1854 | dnairn@bismarcknd.gov

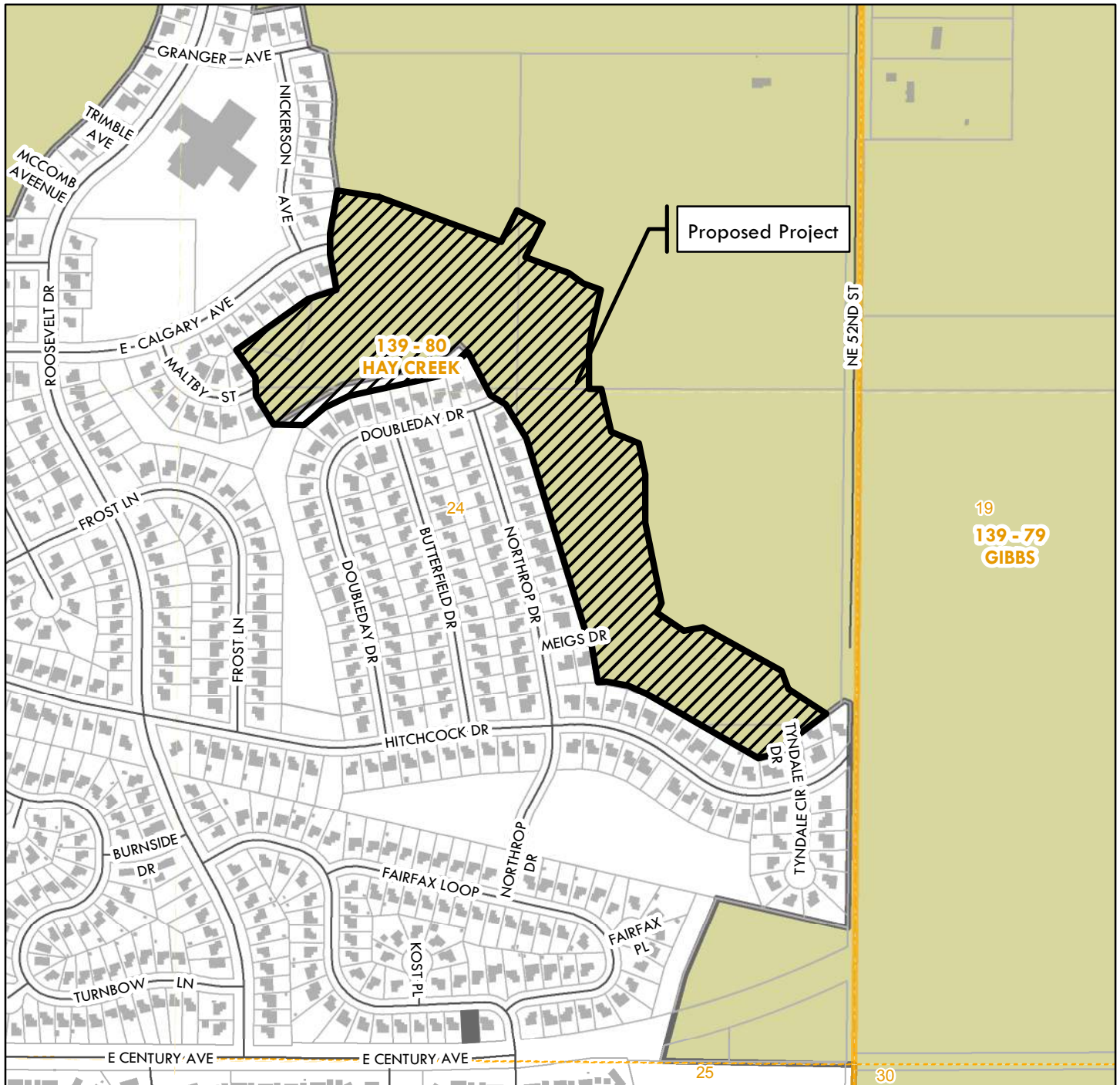


Proposed Major Plat, Annexation and Zoning Change (A to R5 & P)

Sattler's Sunrise Tenth Addition

Trakit Projects PPLT2017-006, ANNX2017-004, ZC2017-017

Location Map



0 0.125 0.25 0.5 Miles

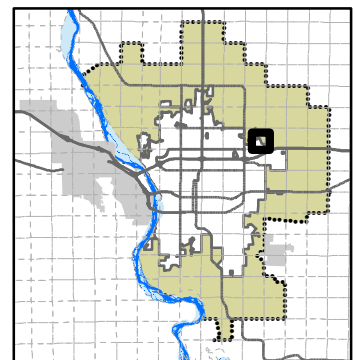


City Limits



Bismarck ETA Jurisdiction

Section, township, and
range indicated in orange



City of Bismarck
Community Development Department
Planning Division
August 25, 2017 (HLB)

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Proposed Preliminary Plat and Zoning Change

Sattler's Sunrise Tenth Addition

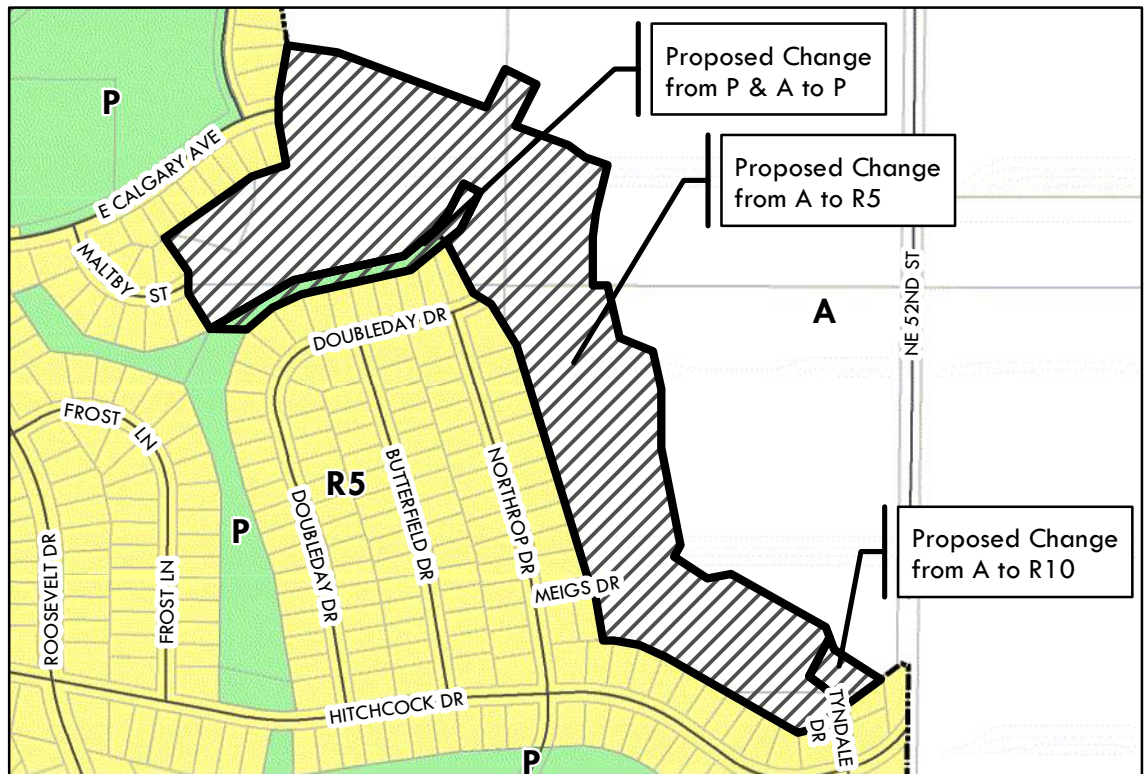
Zoning and Plan
Reference Map

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

Zoning Districts

A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

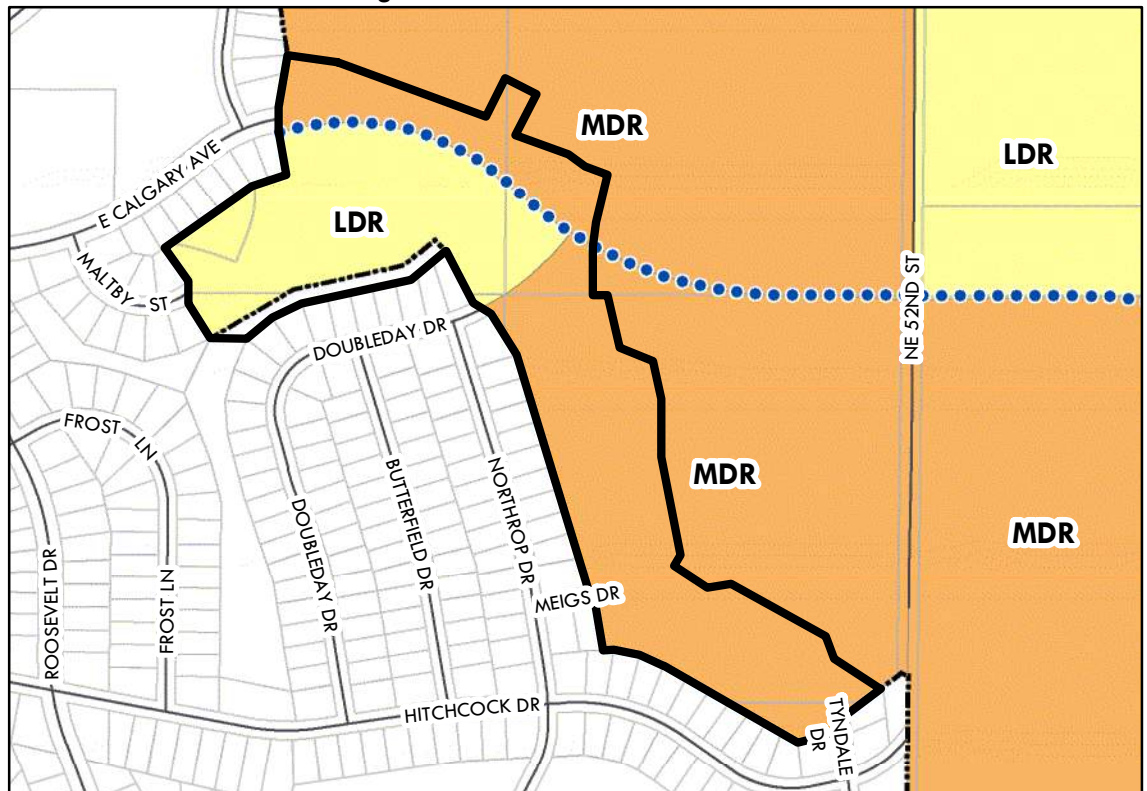
Zoning Map



Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Future Land Use Plan and Fringe Area Road Master Plan



Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector

0 0.075 0.15 0.3 Miles

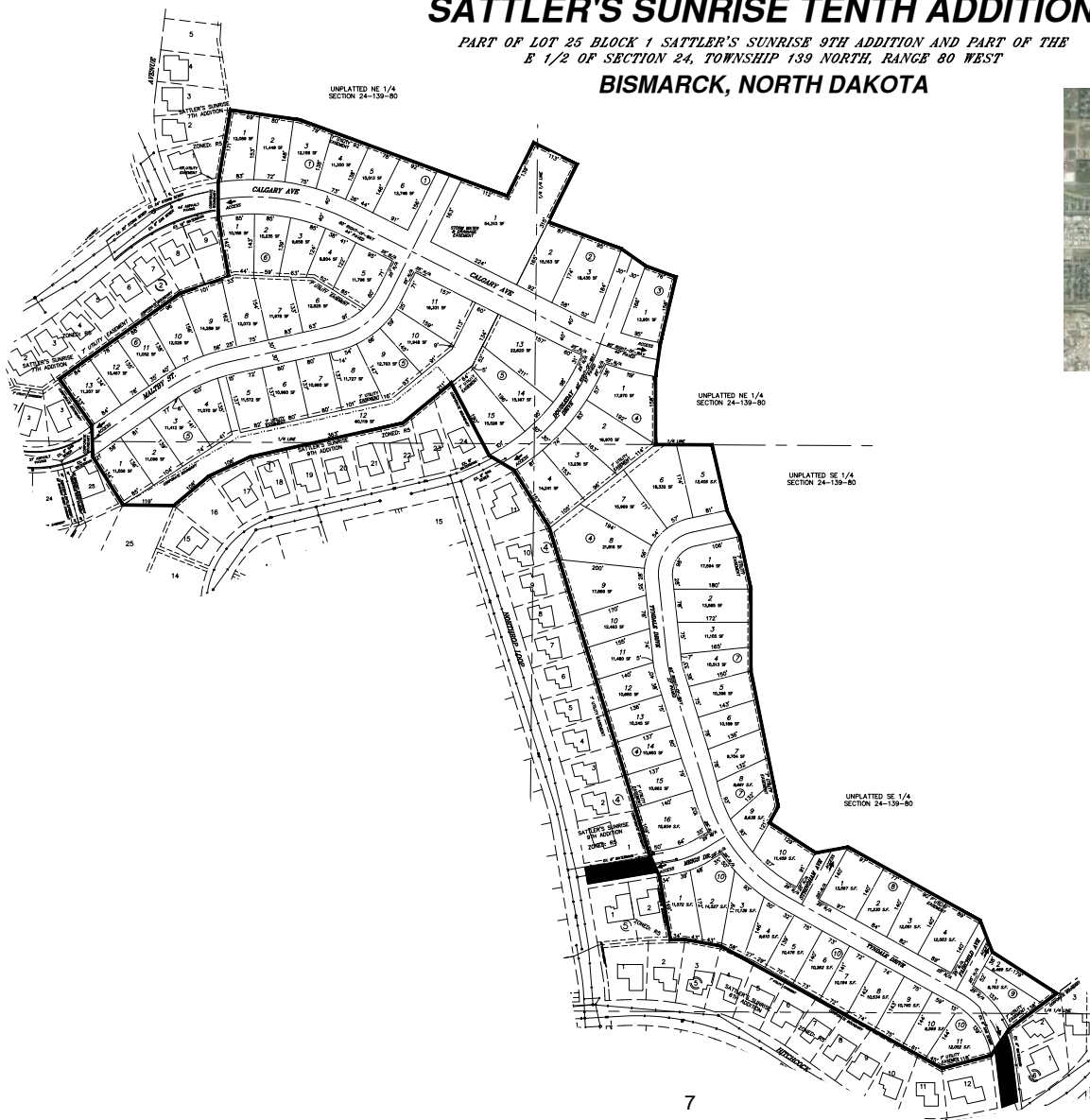
City Limits

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City of Bismarck
Community Development Dept.
Planning Division
September 18, 2017

BISMARCK, NORTH DAKOTA



LOCATION MAP

32.3 ACRES
EXISTING ZONING: A & P
PROPOSED ZONING: R5, R10 & P
81 LOTS

**ZONING: P= LOT 12 BLOCK 5
R10= LOTS 1-2 BLOCK 9
R5= REMAINING LOTS**

**ANNEX: ALL OF
BLOCKS 1, 2, 3, 5, 6, 8, 9 & 10
AND
LOTS 1-4, 16 BLOCK 1
LOTS 8-10 BLOCK 7**

OWNER: SATTLER FAMILY, LLLP
ADDRESS: 324 LIVE OAK LANE
BISMARCK, ND 58504
PHONE: (701) 255-7621



0 100' 200'

SCALE - 1" = 100'

VERTICAL DATUM: NAVD 88

AUGUST 25, 2017



SWENSON, HAGEN & COMPANY P.C.

909 Bison Avenue
Bismarck, North Dakota 58504
shahag@swensonhagen.com
Phone (701) 223 - 2600
Fax (701) 223 - 2606

Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management

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STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

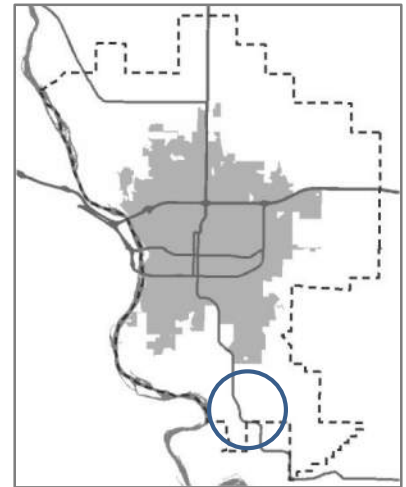
Agenda Item # 3
September 27, 2017

Application for: Major Subdivision Preliminary Plat

TRAKiT Project ID: PPLT2017-007

Project Summary

Title:	Fetzer Estates Subdivision
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Carl and Phyllis Wilkes
Project Contact:	Farrell Fetzer
Location:	South of Bismarck, along the east side of University Drive/Highway 1806 across from the University of Mary campus.
Project Size:	6.77 Acres
Request:	Plat area for construction of a single-family residence.



Site Information

Existing Conditions

Number of Lots:	1
Land Use:	Vacant Land
Designated GMP Future Land Use:	Conventional Rural Residential
Zoning:	RR – Residential
Uses Allowed:	RR – Large lot single-family residential and limited agriculture
Max Density Allowed:	RR – 1 unit per 65,000 square feet

Proposed Conditions

Number of Lots:	1
Land Use:	Single Family Residence
Designated GMP Future Land Use:	Conventional Rural Residential
Zoning:	RR – Residential
Uses Allowed:	RR – Large lot single-family residential and limited agriculture
Max Density Allowed:	RR – 1 unit per 65,000 square feet

Property History

Zoned:	N/A	Platted:	N/A	Annexed:	N/A
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Staff Analysis

The applicant is requesting tentative approval of the preliminary plat titled Fetzer Estates Subdivision to allow the development of one single-family residence. The area is already zoned RR – Rural Residential, and

the proposed development would conform to the requirements of this zoning district.

The proposed plat extends to the centerline of the existing gravel McDonald Road and dedicates 40 feet of right-of-way for this roadway. The southern tip of

(continued)

the plat is currently utilized as a driveway access for the residential property to the south, and has been included within the right-of-way on the plat. McDonald Road is considered a roadway by prescription. It has neither been dedicated nor preserved with an easement, but has been in use for many years and is currently being maintained by the Burleigh County. The applicant will have to receive approval for the dedication of the roadway from the Burleigh County Commission, and any requirements to pave the roadway will be addressed at that time.

The western portion of the plat includes a steep slope. The North Dakota Department of Transportation cut into the hillside during the reconstruction of Highway 1804 and the slope that was cut is included within this property. To ensure structural stability of any structure, staff has recommended the placement of a slope protection easement which would prohibit any improvements, grading, or sprinkler systems within it. The slope protection easement line is shown at the very edge of the slope. A geotechnical study of the land behind the toe of the slope would provide more assurance of structural stability. The ordinance does not require such a study, but staff recommends a geotechnical study if construction is proposed in proximity of the slope easement.

The site of the plat is on the high point of elevation at the top of the bluff. Because of its proximity of the airport to the north, there may be limitations on the height of a structure on this property. A 26-foot tall (2-story) structure could be built at the highest point without exceeding any airport height restrictions, but the structure could not be much higher unless it is built at a lower point on the lot.

Required Findings of Fact (relating to land use)

1. All technical requirements for consideration of a preliminary plat have been met;
2. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
3. The provision of neighborhood parks and open space is not needed because the proposed preliminary plat is not an urban subdivision with residential zoning districts;

4. The proposed subdivision would likely not have a substantial effect on circulation and safety of public roadways in the vicinity, and therefore no traffic impact study is required.
5. The City of Bismarck, Burleigh County, or other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
6. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands. A portion of the subdivision unsuited for development due to extreme topography is protected by easement;
7. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
8. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
9. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends tentative approval of the preliminary plat for Fetzner Estates, with the understanding that the following issues need to be resolved prior to a public hearing being scheduled for the final plat:

1. Conformance with airport height restrictions is verified prior to issuance of a building permit.
2. The exact location of the slope protection easement is verified to ensure structural stability of any improvements.

Attachments

1. Location Map
2. Zoning and Plan Reference Map

(continued)

3. Preliminary Plat

Staff report prepared by: Daniel Nairn, AICP, Planner
701-355-1854 | dnairn@bismarcknd.gov

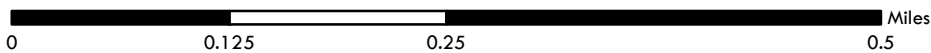
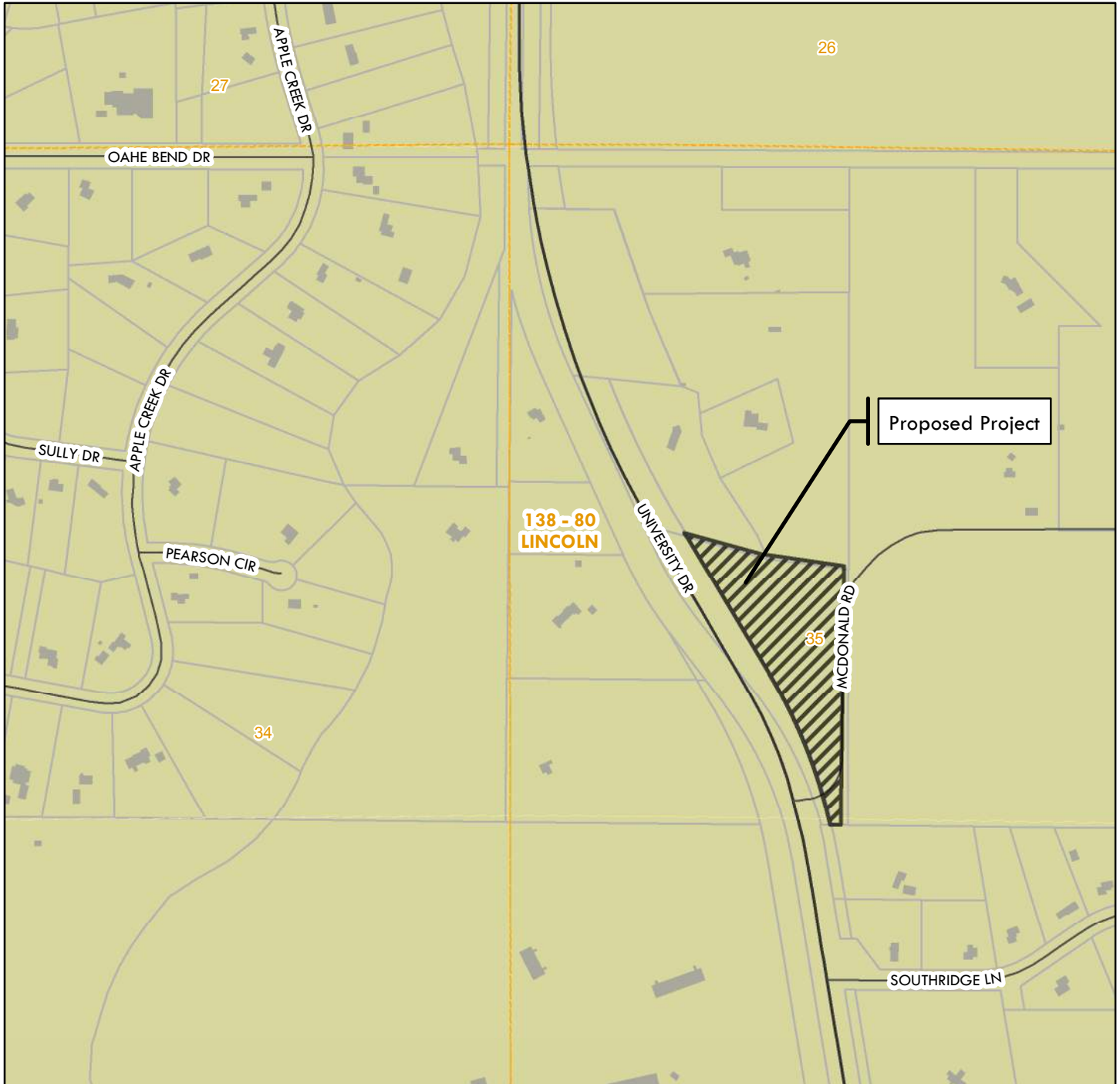


Proposed Major Plat

Fetzer Estates Subdivision

Trakit Project PPLT2017-007

Location Map

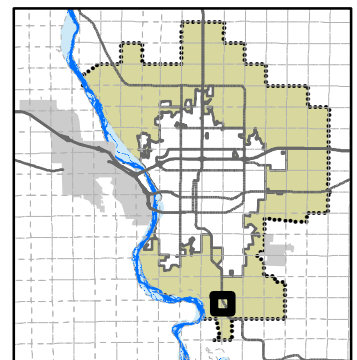


City Limits



Bismarck ETA Jurisdiction

Section, township, and range indicated in orange



City of Bismarck
Community Development Department
Planning Division
August 25, 2017 (HLB)



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Proposed Preliminary Plat

Fetzer Estates Subdivision

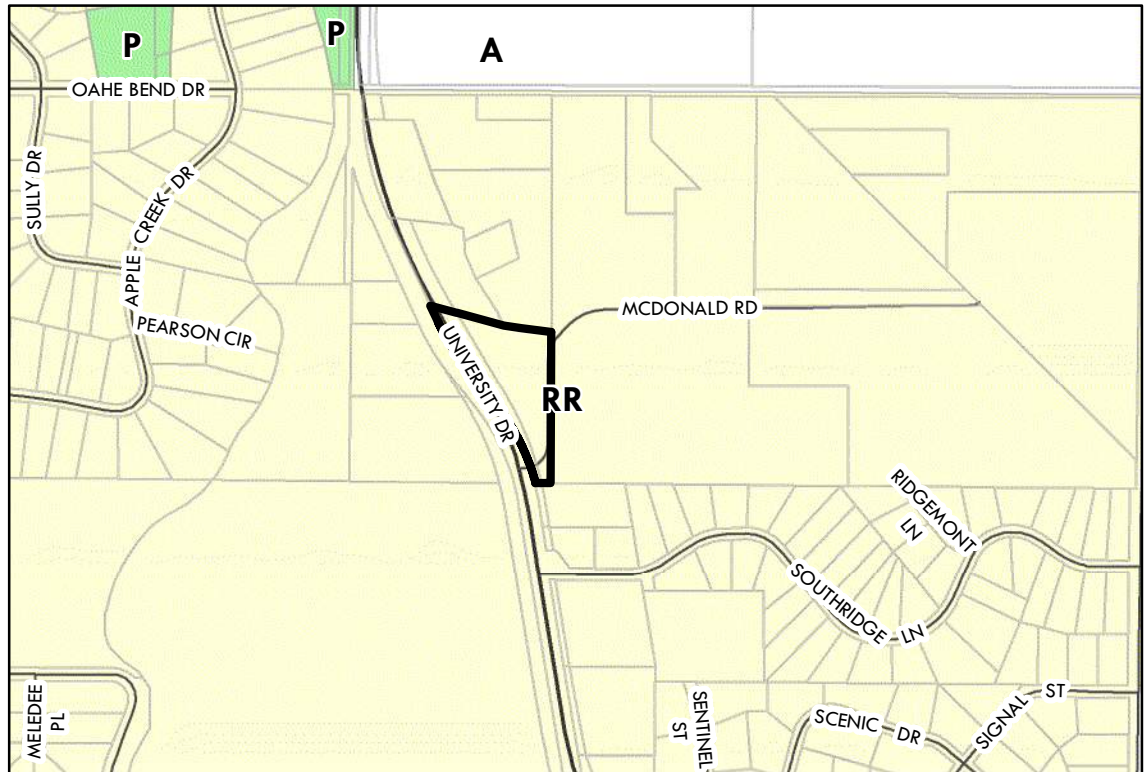
Zoning and Plan
Reference Map

-  Project Area - No Change Proposed
-  Zoning or Plan Change Proposed

Zoning Districts

A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

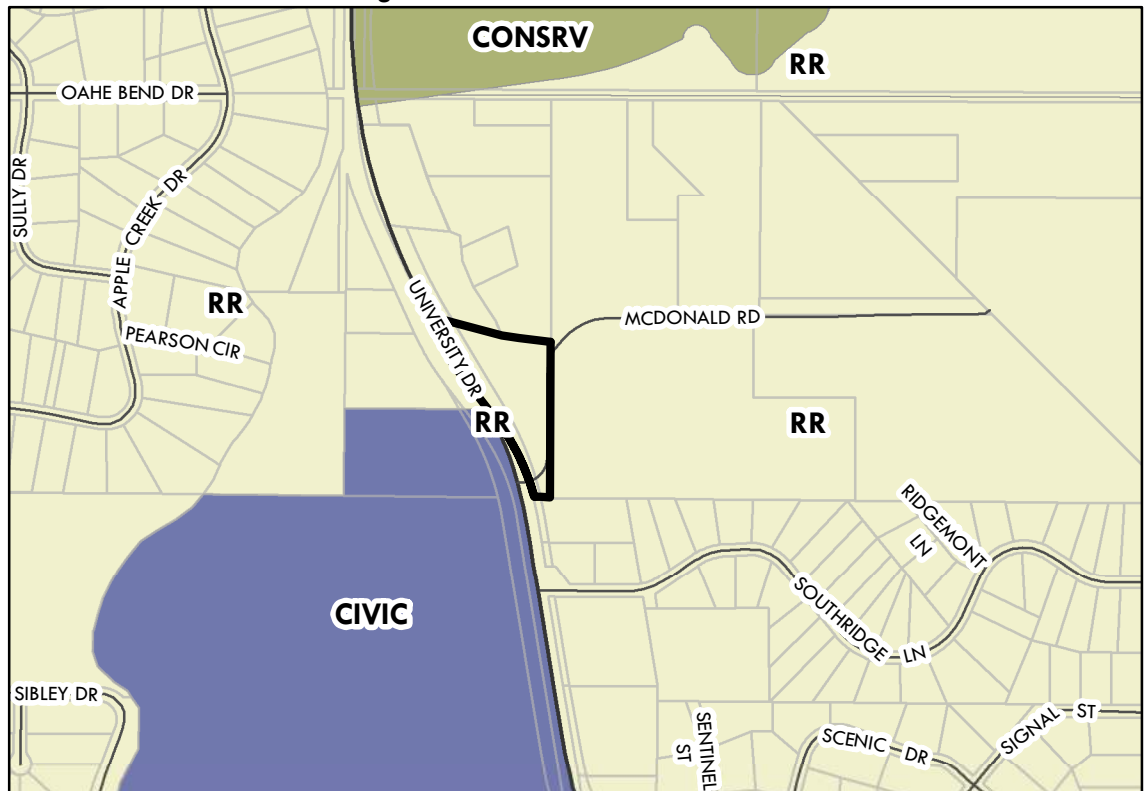
Zoning Map



Future Land Use Plan and Fringe Area Road Master Plan

Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve



Fringe Area Road Master Plan

- ● ● ● Planned Arterial
- ● ● ● Planned Collector

0 0.2 0.4 0.8 Miles



City Limits

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City of Bismarck
Community Development Dept.
Planning Division
September 22, 2017



SCALE - 1"=100'
0 50 100 150'
AUGUST 25, 2017
NAVD 88

OWNER:
CARL & PHYLLIS WILKES
1449 S 35TH STREET
GRAND FORKS, ND 58201-3701
701-220-0520

DEVELOPER:
FARRELL FETZER
4229 CENTURION DR. #5
BISMARCK, ND 58504

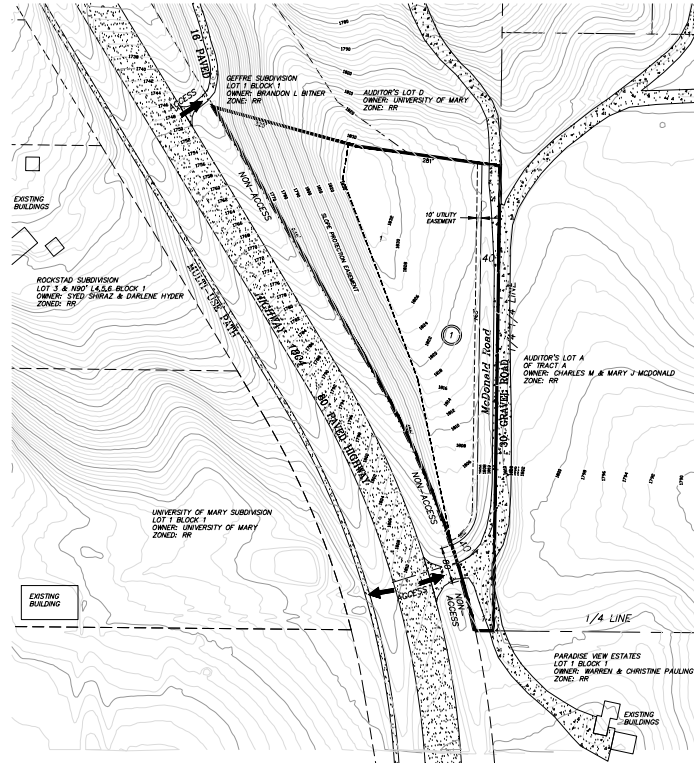
6.77 ACRES
EXISTING ZONING: RR
1 LOT

LOCATION MAP



FETZER ESTATES SUBDIVISION

AUDITOR'S LOT A LESS HIGHWAY 1804/UNIVERSITY DRIVE RIGHTOF WAY OF THE
NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 138 NORTH, RANGE 80 WEST
BURLEIGH COUNTY, NORTH DAKOTA





STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

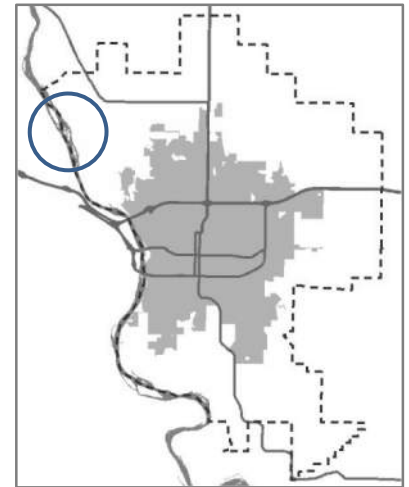
Agenda Item # 4
September 27, 2017

Application for: Major Planned Unit Development (PUD) Amendment

TRAKiT Project ID: PUDA2017-002

Project Summary

Title:	Misty Waters PUD
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Multiple
Project Contact:	Kim L. Lee, AICP, Planning Manger
Location:	Northwest of Bismarck, west of River Road along the west side of Burnt Creek Loop
Project Size:	151.14 acres
Request:	City-initiated amendment to allow two unit buildings within the PUD to be either two-unit rowhouses (twinhomes) or two-unit condominiums.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	126 lots in 4 blocks	Number of Lots:	126 lots in 4 blocks
Land Use:	Mixed density residential with limited commercial	Land Use:	Mixed density residential with limited commercial
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	PUD – Planned Unit Development	Zoning:	PUD – Planned Unit Development
Uses Allowed:	PUD – Uses specified in PUD	Uses Allowed:	PUD – Uses specified in PUD
Max Density Allowed:	PUD – Density specified in PUD	Max Density Allowed:	PUD – Density specified in PUD

Property History

Zoned:	05/2005	Platted:	05/2005	Annexed:	N/A
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Staff Analysis

The Community Development Department – Planning Division is initiated this amendment to the Misty Waters

Planned Unit Development to clarify language relating to multi-family residential development within the PUD.

The Misty Waters Planned Unit Development was approved by both the City of Bismarck and Burleigh

(continued)

County in May 2005 and the final plat was recorded in September 2005. Both the City and County PUD ordinances indicate that the PUD shall only be amended in accordance with the provisions of Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments) and that major changes require a majority vote of the Bismarck Planning & Zoning Commission.

The PUD was amended in September 2006 to: 1) eliminate the building corridor shown on the approved plan and replace it with an elevation to determine the rear yard setback; 2) combine Lots 82-84, Block 1 and Lots 38-40, Block 3 to create condominium associations that would replace the allowed four 4-plexes and four single family dwellings with 10 twinhomes (no net change in density); 3) change the designated land uses on Lot 2, Block 1 to include multi-family residential on the northern portion of the lot (5 twinhomes in a condominium association); and 4) eliminate the need for compliance with the City's landscaping and screening requirements.

When the PUD was amended in 2006, the language related to condominium associations was retained at the request of the developer. Since that time, the ownership of some of the property designated for condominiums has changed and one of the new owners would like to split the lot for a twinhome without a condominium association. Development of the property would look the same, but each owner would own the land upon which his/her half of the building was located rather than both owners having common ownership of the land upon which the entire building was located.

Because the PUD language was so specific, staff is initiating this PUD amendment to remove the condominium language. This would allow the parcels to be developed either as condominiums or as two-unit rowhouses.

Required Findings of Fact (relating to land use)

1. The proposed amendment generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;

2. The proposed amendment is compatible with adjacent land uses and zoning;
3. The City of Bismarck, Burleigh County and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed amendment at the time the property is developed;
4. The Hay Creek Township Board of Supervisors has been informed of the proposed amendment, but has not yet made a recommendation;
5. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner;
6. The character and nature of the amended planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located;
7. The amended planned unit development would preserve the natural features of the site inasmuch as possible, including the preservation of trees and natural drainage ways;
8. The internal roadway circulation system within the amended planned unit development has been adequately designed for the type of traffic that would be generated;
9. Adequate buffer areas have been provided between the amended planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.
10. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance;
11. The proposed amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
12. The proposed amendment would not adversely affect the public health, safety, and general welfare.

(continued)

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the major Planned Unit Development (PUD) amendment for Misty Waters as outlined in the attached draft PUD Amendment Document.

Attachments

1. Location Map
2. Draft PUD Amendment Document

Staff report prepared by: Kim L. Lee, AICP, Planning Manager
701-355-1846 | klee@bismarcknd.gov

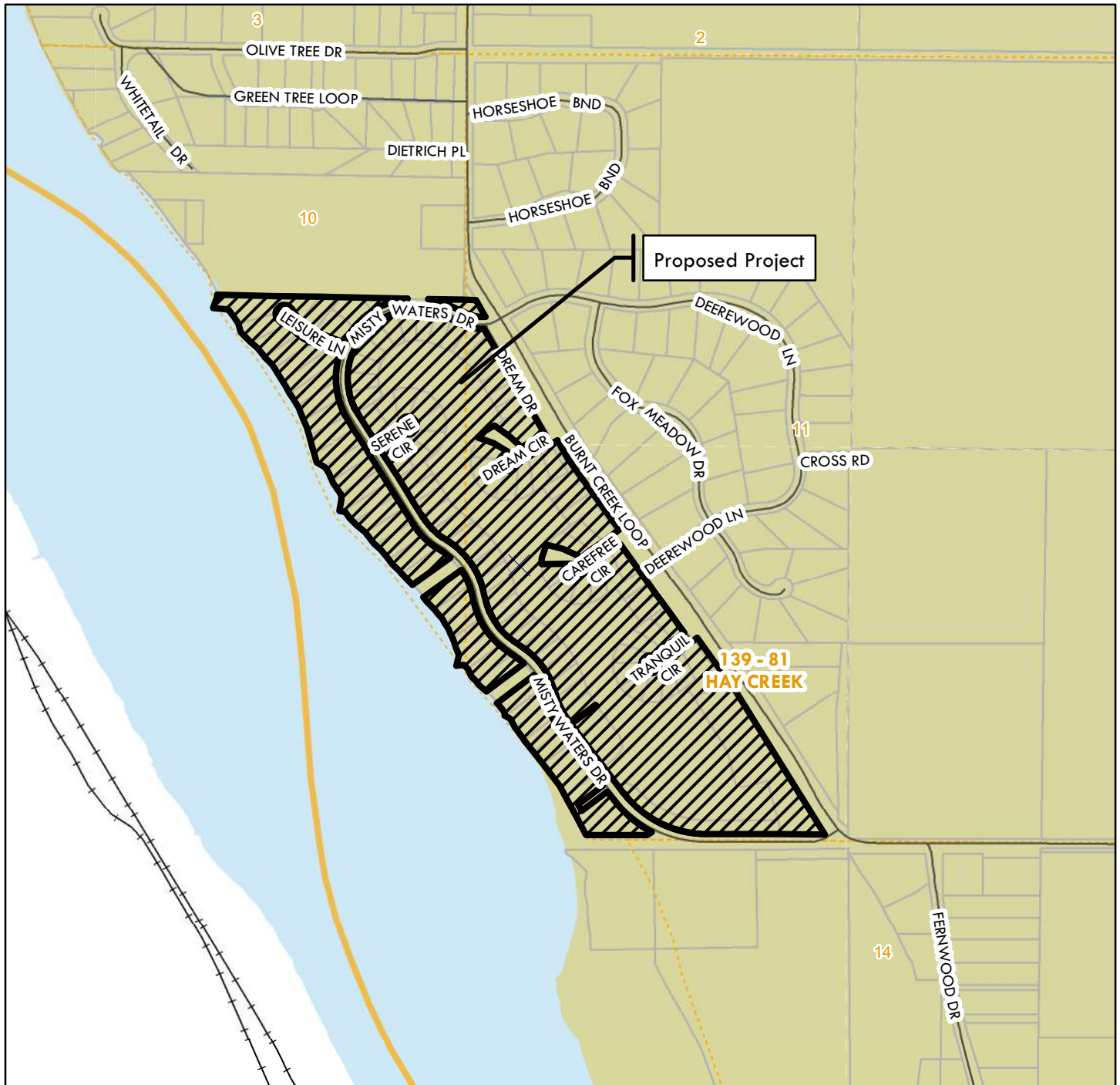


Proposed PUD Amendment

Misty Waters

Trakit Project PUDA2017-002

Location Map



0 0.25 0.5 1 Miles



City Limits



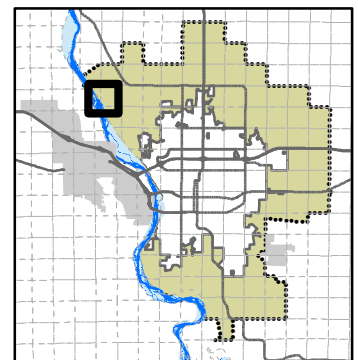
Bismarck ETA Jurisdiction

Section, township, and range indicated in orange



City of Bismarck
Community Development Department
Planning Division
September 15, 2017 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



**MISTY WATERS PLANNED UNIT DEVELOPMENT
ORDINANCE NO. 5435 (Adopted June 14, 2005)
MAJOR PUD AMENDEMNT (Adopted August 23, 2006)
MAJOR PUD AMENDMENT (Adopted _____)**

WHEREAS, Ordinance No. 5435 was adopted by the Board of City Commissioners on June 14, 2005; and

WHEREAS, Ordinance No. 05-03 was adopted by the Board of County Commissioners on June 6, 2005; and

WHEREAS, Section 1(2) of both ordinances indicates that this PUD shall only be amended in accordance with the provisions of Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments); and

WHEREAS, the PUD was amended on August 23, 2006 at the Misty Waters LLC to modify the location and density of residential uses, the location of commercial uses, and the setback around the bay; and

WHEREAS, the City of Bismarck has initiated this amendment to the Planned Unit Development for Misty Waters to clarify provisions for the multi-family residential development standards.

NOW, THEREFORE, BE IT RESOLVED by the Bismarck Planning and Zoning Commission of the City of Bismarck, North Dakota, a municipal corporation, that the request to amend the Planned Unit Development for the following described property:

Lots 1-84, Block 1; Lots 1, Block 2; Lots 1-40, Block 3; and Lot 1, Block 4;
Misty Waters

is hereby approved and this PUD is now subject to the following development standards:

1. *Uses Permitted.* Uses permitted include a maximum of 145 residential units (115 single-family residential units and up to 30 **two-family residential units constructed in condominium associations with two units per building**); water-related commercial uses, including a marina with boat slip mooring, dockside fuel, boat rental, a gas station/convenience store with a two-bay boat repair facility, and a restaurant/bar; marina parking facilities; parking facilities for winter storage of marine boats and pontoons; and a public boat ramp with parking to be deeded to Burleigh County. Any change in the proposed uses within the PUD from that indicated herein will require an amendment to this PUD.

2. *Single-Family Residential Development Standards.* Single family residential development shall be located on Lots 2 –81, Block 1 and Lots 2- 37, Block 3 (115 lots with one dwelling unit per lot); the building corridor shown on the development plan submitted with the application for a PUD shall be

eliminated; the minimum front yard setback shall be 40 feet on Burnt Creek Loop, 35 feet on Misty Waters Drive and 25 feet on the other interior roadways; the minimum side yard setback shall be 10 feet with no encroachments (decks, bay windows, etc); the minimum rear yard setback shall be 30 feet; the minimum setback from the ordinary high water mark of the Missouri River shall be 100 feet; the minimum setback from the bay shall be elevation 1640.3 (NAVD88) as delineated by the contour line described in the approved LOMR; the maximum building height shall be 35 feet; walkout basements shall be elevated to a minimum of one foot above the base flood elevation; and the maximum lot coverage shall be 30%. Accessory buildings may be allowed in accordance with the provisions of Section 14-03-06 of the City Code of Ordinances (Incidental Uses) and shall be subject to the same setback requirements as the principal structure. Residential building types shall be substantially similar to those submitted in conjunction with the application for a PUD. Any change to the density or building setbacks that are inconsistent with these standards will require an amendment to this PUD.

3. ~~Multi-family~~ Two-family Residential Development Standards. ~~Multi-family~~ Two-family residential development shall be located on the northerly 573.16 feet of the easterly 177.91 feet of Lot 2 and all of Lots 82-84, Block 1, and Lots 38-40, Block 3 (~~three separate parcels with a separate condominium association for each parcel and with up to five fifteen~~ buildings with no more than two units in each building ~~on each parcel~~); the building corridor shown on the development plan submitted with the application for a PUD shall be eliminated; the minimum front yard setback shall be 35 feet; the minimum side yard setback shall be 15 feet with no encroachments (decks, bay windows, etc); the minimum rear yard setback shall be 30 feet; the minimum setback from the ordinary high water mark of the Missouri River shall be 100 feet; the minimum setback from the bay shall be elevation 1640.3 (NAVD88) as delineated by the contour line described in the approved LOMR; the maximum building height shall be 35 feet; walkout basements shall be elevated to a minimum of one foot above the base flood elevation; and the maximum lot coverage shall be 40%. Accessory buildings may be allowed in accordance with the provisions of Section 14-03-06 of the City Code of Ordinances (Incidental Uses) and shall be subject to the same setback requirements as the principal structure. Residential building types shall be substantially similar to those submitted in conjunction with the application for a PUD. Any change to the density or building setbacks that are inconsistent with these standards will require an amendment to this PUD.

4. *Commercial Development Standards.* Commercial development shall be located on Lot 2 less the northerly 573.16 feet of the easterly 177.91 feet of Lot 2, Block 1 and shall be limited to water-related commercial uses, including a marina with boat slip mooring, dockside fuel, boat rental, a gas station/ convenience store, a two-bay boat repair facility, and a restaurant/bar. The minimum front yard setback shall be 40 feet; the minimum side yard setback shall be 20 feet; the minimum rear yard setback shall be 30 feet; the maximum building height shall

be 35 feet; and the maximum lot coverage shall be 70%. Commercial building types shall be substantially similar to those submitted in conjunction with the application for a PUD. Parking areas for commercial uses shall be provided in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading), based on the square footage and uses. Said parking areas shall be hard-surfaced and striped in conjunction with site development and regularly maintained. Concrete perimeter curbing of the parking areas will not be required. Any change to the uses or building setbacks that are inconsistent with these standards will require an amendment to this PUD. Any activities requiring a special use permit, such as gas dispensing/filling station or liquor sales, shall be subject to the requirements of Section 14-03-08 of the City Code of Ordinances (Special Uses). Any liquor sales will also be subject to the standards agreed to by Burleigh County and the developer in conjunction with liquor licensing.

5. *Marina Parking Facilities.* Marina parking facilities, including parking facilities for winter storage of marine boats and pontoons, shall be located on Lot 1, Block 1, in accordance with Section 14-03-10 of the City Code of Ordinances (Off-street Parking and Loading), based on a ratio of one parking space per 1.5 boat slips. Said parking areas shall be hard-surfaced and striped in conjunction with site development and regularly maintained. Concrete perimeter curbing of the parking areas will not be required. A marina restroom and concession facility may be constructed on Lot 1, and each shall be no larger than 500 square feet in area, no more than one story in height, be architecturally similar to other commercial buildings in the development and be subject to the same development standards as outlined for commercial uses. Any changes to the location of marine parking facilities will require an amendment to this PUD.

6. *Public Boat Ramp.* A public boat ramp and parking facilities shall be located on Lot 1, Block 4. Said boat ramp and parking facilities shall be developed in accordance with the agreement between the Developer and Burleigh County. Upon conveyance of the property to Burleigh County, the County may construct other complementary facilities, such as restrooms, fish cleaning stations, and picnic shelters.

7. *Signage.* Development identification signage may be installed on Lot 1, Block 2, in accordance with the requirements of Section 14-03-05(9) of the City Code of Ordinances (Residential Area Identification Signs). Signage for the commercial uses on Lot 2, Block 1, shall be limited to one pylon sign no more than 35 feet in overall height with a face not exceeding 96 square feet, one monument sign with a face not exceeding 48 square feet, and up to two wall signs per building (one facing the marina and one facing the entrance to the commercial area) in accordance with the provision of Chapter 4-04 of the City Code of Ordinances (Signs and Outdoor Display Structures).

8. *Landscaping.* Landscaping and buffer yards shall be provided in accordance with Section 14-03-11 of the City Code of Ordinances (Landscaping

and Screening). The perimeter parking lot landscaping requirements for the marina parking facilities on Lot 1, Block 1 and the commercial uses on Lot 2 less the northerly 573.16 feet of the easterly 177.91 feet of Lot 2, Block 1 may be modified by the City Forester and/or City Planner to recognize the setting of the development and to incorporate deer and drought-resistant plant materials, provided the overall intent of the landscaping requirements, if not the specific plant quantities, are met.

9. *Common Elements.* Maintenance of all common elements, including the bay/inlet (Lot 85, Block 1) and open space lots (Lot 1, Block 2 and Lot 1, Block 3), shall be the responsibility of the property owner's association.

10. *Lot Modifications.* Any subsequent modification of lots shall be subject to the requirements of Section 14-09-02 of the City Code of Ordinances.

11. *No-Build Easement.* A no-build easement is shown on the face of the plat of Misty Waters over a portion of Lots 1 and 2, Block 1. The intent of this easement is to prohibit construction of structures within this area, as it is part of the Northern Bridge Corridor. The easement reserves the area for the future bridge and related roadways, but does not dedicate the property for this purpose.

12. *Changes.* This PUD shall only be amended in accordance with Section 14-04-18(4) of the City Code of Ordinances (Planned Unit Developments). Major changes require a public hearing and a majority vote of the Bismarck Planning & Zoning Commission.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 5
September 27, 2017

Application for: Annexation

Future Land Use Plan Amendment

Zoning Change

Major Subdivision Final Plat

TRAKiT Project ID: ANNX2017-003

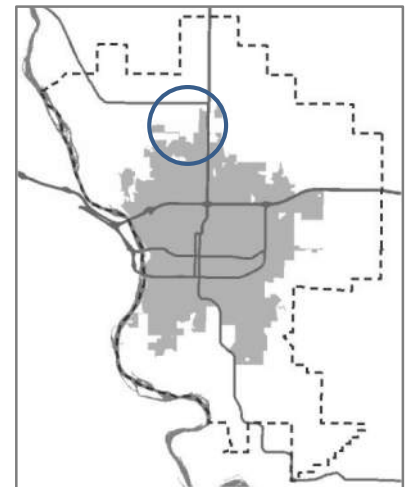
FLUP2017-001

ZC2017-005

FPLT2017-004

Project Summary

Title:	Daybreak Medical Addition
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	57 North Investors, LLP – Lots 1 and 2, Block 1 Montana-Dakota Utilities Co. - Lot 3, Block 1 Ron and Ruth Knutson – Block 2
Project Contact:	Dave Patience, Swenson, Hagen & Company, P.C.
Location:	Northwest Bismarck, along the east side of North Washington Street, north of and at the intersection with 57 th Avenue NE.
Project Size:	38.57 acres
Request:	Plat, zone and annex property for the future development of medical, office and neighborhood commercial land uses.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	2 parcels and part of another	Number of Lots:	4 lots in 2 blocks
Land Use:	Undeveloped/agricultural	Land Use:	Mix of office and neighborhood commercial
Designated GMP Future Land Use:	Medium Density Residential	Designated GMP Future Land Use:	Office/Mixed Use
Zoning:	A – Agricultural	Zoning:	Conditional RT – Residential Conditional CA – Commercial
Uses Allowed:	A – Agriculture	Uses Allowed:	Conditional RT – Offices and multi-family residential Conditional CA – Neighborhood commercial
Max Density Allowed:	A – 1 unit / 40 acres	Max Density Allowed:	Conditional RT – 30 units / acre Conditional CA – 30 units / acre

Property History

Zoned:	N/A	Platted:	N/A	Annexed:	N/A
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Staff Analysis

The Planning and Zoning Commission tentatively approved the preliminary plat for Daybreak Medical Addition and scheduled a public hearing for the proposed Future Land Use Plan amendment and zoning change at their meeting of April 26, 2017.

The applicants are requesting approval of a Future Land Use Plan amendment to change the classification of this property from Medium Density Residential to Office/Mixed Use. The proposed amendment is necessary to support the zoning districts proposed.

The applicants are also requesting approval of a zoning change and preliminary plat to allow the future development of a mix of medical, office and neighborhood commercial uses on the property.

Adjacent land uses include undeveloped land to the south across 57th Avenue NE, rural residential uses to the west across North Washington Street, undeveloped agricultural land to the north, and the future St. Mary's High School and related facilities to the east.

Although the applicants originally requested CA – Commercial zoning for the entire plat, staff indicated that we could not support that amount of neighborhood commercial in this location based on the Future Land Use Plan, the proximity of the property to the existing rural residential development across North Washington Street, and the fact that the entire eastern half of this section is already identified as Commercial or Commercial Mixed Use. Staff has worked cooperatively with the applicants over the past few months to craft a Conditional CA – Commercial zoning district for the most southeastern lot and a Conditional RT – Residential zoning district for the remainder of the proposed plat that meets the needs of both the applicants and the City.

There were some outstanding issues regarding the provision of municipal services to the proposed subdivision, pedestrian access in the area and sight distances where Greenfield Lane intersects with North

Washington Street, but all of these issues have been resolved.

Required Findings of Fact (relating to land use)

Annexation

1. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the annexation at the time the property is developed;
2. The proposed annexation is a logical and contiguous extension of the current corporate limits of the City of Bismarck;
3. The proposed annexation is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed annexation is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed annexation would not adversely affect the public health, safety and general welfare.

Future Land Use Plan Amendment

1. The proposed amendment is compatible with adjacent land uses;
2. The proposed amendment is justified by a change in conditions since the future land use plan was established or last amended;
3. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner;
4. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance;
5. The proposed amendment is consistent with the other aspects of the master plan, other adopted plans, policies and accepted planning practice; and

(continued)

6. The proposed amendment would not adversely affect the public health, safety, and general welfare.

Zoning Change

1. The proposed zoning change would generally conform to the Future Land Use Plan in the 2014 Growth Management Plan, if the proposed amendment is approved;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Final Plat

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission;
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;

4. The stormwater management plan for the subdivision has been approved by the City Engineer;
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts. If any of the property is developed as residential, the requirements of the neighborhood parks and open space policy would be applied;
6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
7. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the annexation, the Future Land Use Plan amendment to change the designation of the property from Medium Density Residential (MDR) to Office/Mixed Use (OMU), the zoning change from the A – Agricultural zoning district to the Conditional RT –

(continued)

Residential zoning district on Lots 1 and 3, Block 1 and Lot 1, Block 2 and to the Conditional CA – Commercial zoning district on Lot 2, Block 1 as outlined in the attached draft ordinance, and the final plat for Daybreak Medical Addition.

Attachments

1. Location Map

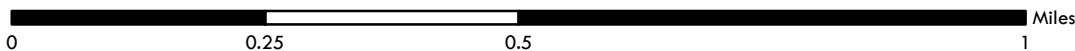
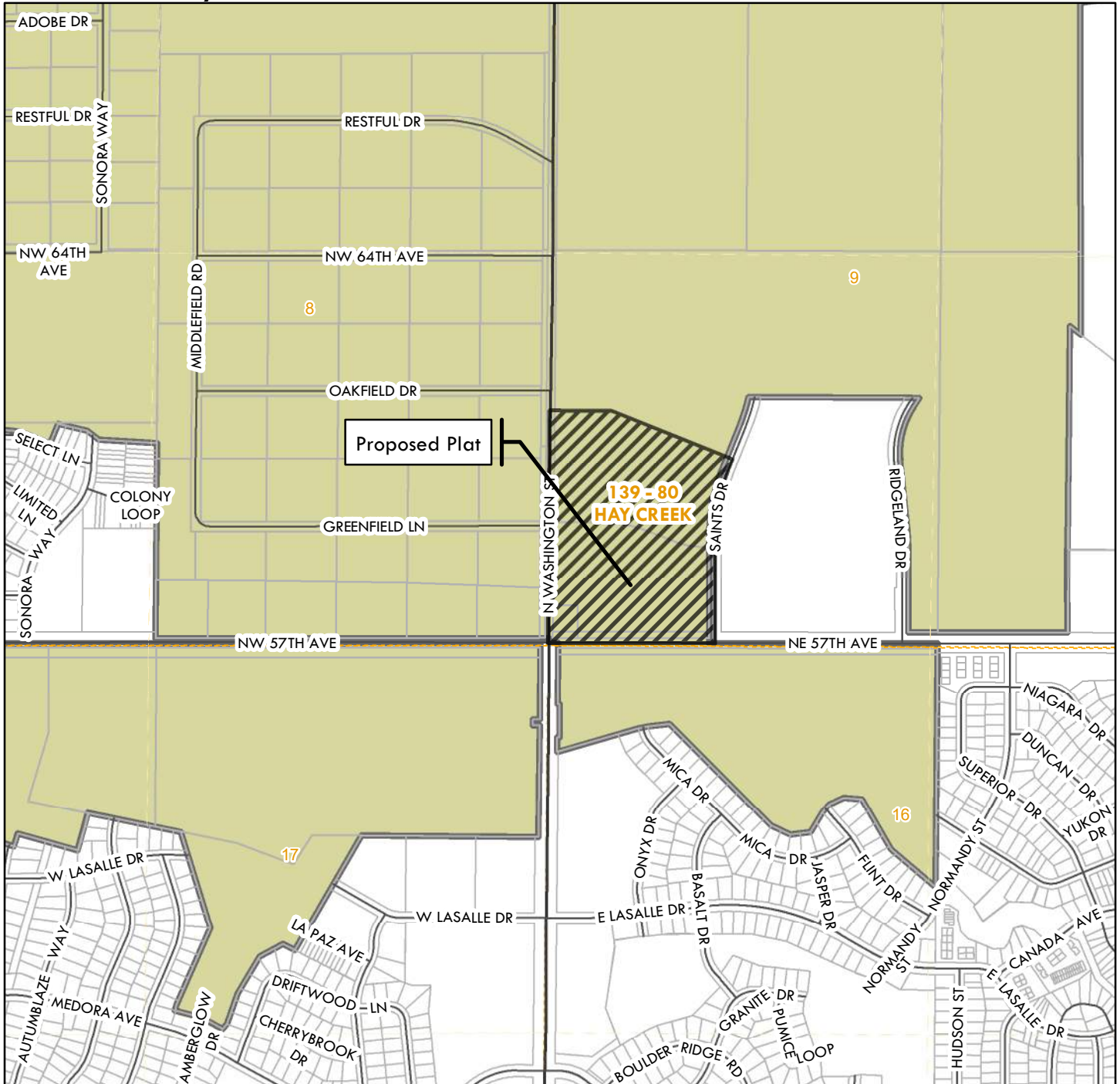
2. Zoning and Plan Reference Map
3. Future Land Use Plan Amendment Narrative
4. Draft Zoning Ordinance
5. Final Plat
6. Preliminary Plat

Staff report prepared by: Kim L. Lee, AICP, Planning Manager
701-355-1846 | klee@bismarcknd.gov



Proposed Major Plat, Annexation, Future Land Use Plan Amendment and Zoning Change (A to Conditional RT and Conditional CA) Daybreak Medical Addition

Project
Location Map

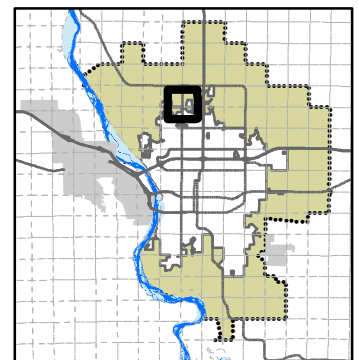


City Limits



Bismarck ETA Jurisdiction

Section, township, and
range indicated in orange



City of Bismarck
Community Development Department
Planning Division
September 22, 2017 (HLB)

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Proposed Zoning Change (A to Conditional RT and Conditional CA) and FLUP Change

Daybreak Medical Addition

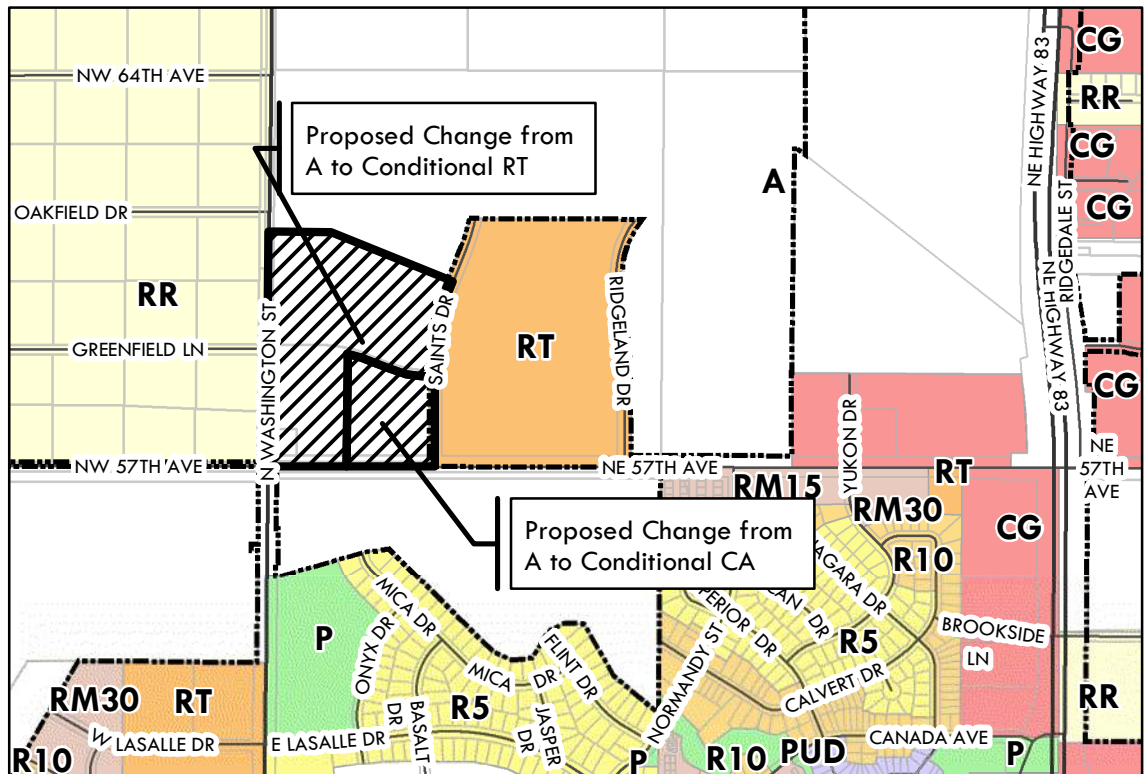
Zoning and Plan
Reference Map

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

Zoning Districts

A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

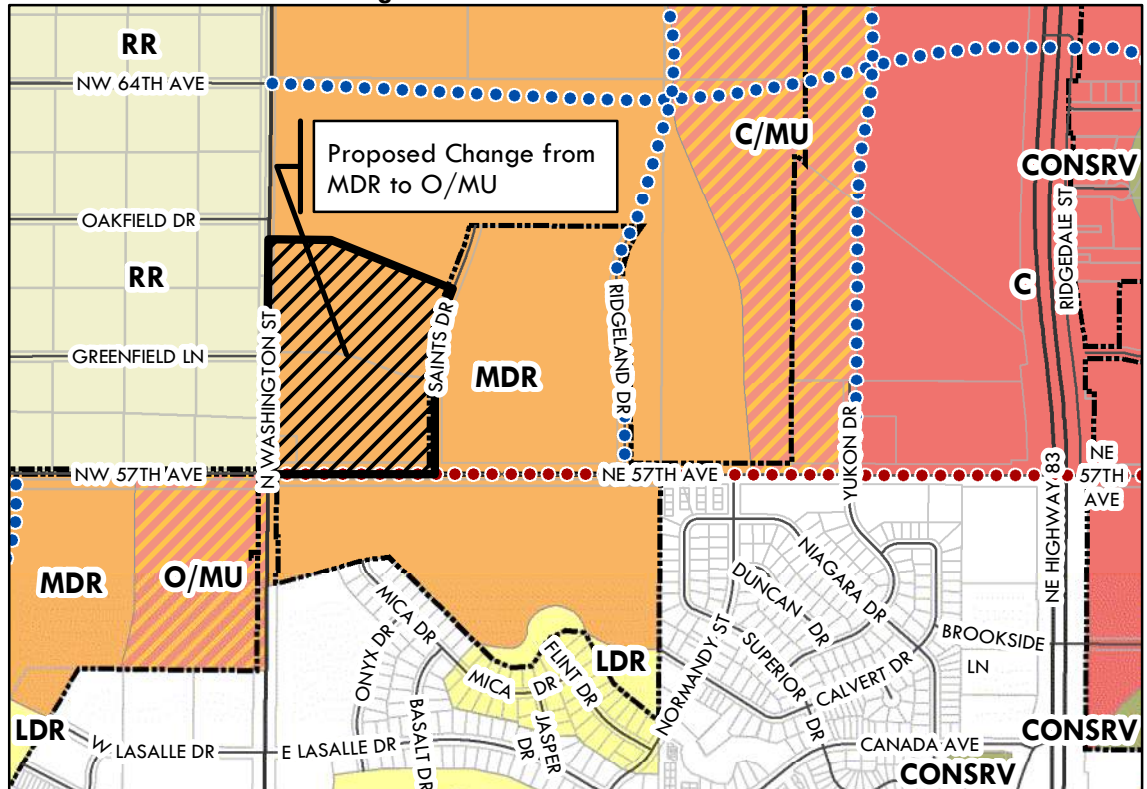
Zoning Map



Future Land Use Plan and Fringe Area Road Master Plan

Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve



Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector



0 0.2 0.4 0.8 Miles

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck
Community Development Dept.
Planning Division
September 13, 2017

Land Use Plan Amendment

57 North Addition

Medium Density Residential to Office Mixed Use

The City of Bismarck Future Land Use Plan along North Washington Street shows the existing rural residential along the west side of Washington Street and proposed medium density residential along the east side of North Washington Street. The Future Land Use Plan does not identify the Light of Christ High School Complex. The Future Land Use Plan should be revised due to the proposed Light of Christ Complex being constructed ¼ mile east of Washington Street along 57th Avenue.

In an effort to anticipate the long range future land use of this area and to accommodate the anticipated traffic volumes at the intersection of North Washington Street and 57th Avenue NW we are requesting a designation of Office Mixed Use for that area adjoin the north side of 57th Avenue and the east side of Washington Street.

We are aware that on a temporary basis the existing use along the west side of North Washington Street has been limited to low density rural residential housing. These units will in the near future become economically available for transitional uses and will be subject to zoning change requests. As is the case along North Washington south of 57th Avenue. In anticipation of this we intend to establish an RT Residential Zoning District with the following Conditional CA Commercial zoning.

We are restricting the proposed zoning as follows:

1. The total building height shall be limited to two stories in height.
2. All exterior lighting shall be designed and installed in a manner intended to limit the amount of off site impacts to the adjacent residential uses.
3. Illuminated signs will be designed and installed in a manner intended to limit the amount of off site impacts to the adjacent residential uses and will be directed towards North Washington Street.
4. The proposed buildings will be designed and constructed to create and maintain a high visual quality and appearance that is comparable and complementary to the adjacent residential uses.

The proposed zoning change would be compatible with adjacent land uses provided the conditions outlined in the Conditional CA Commercial are met.

ORDINANCE NO.

<i>Introduced by</i>	_____
<i>First Reading</i>	_____
<i>Second Reading</i>	_____
<i>Final Passage and Adoption</i>	_____
<i>Publication Date</i>	_____

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-02 OF THE 1986 CODE OF ORDINANCES, OF THE CITY OF BISMARCK, NORTH DAKOTA, AS AMENDED, RELATING TO THE BOUNDARIES OF ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A – Agricultural zoning district and included in the Conditional RT – Residential zoning district:

Lots 1 and 3, Block 1 and Lot 1, Block 2, Daybreak Medical Addition.

This Conditional RT-Residential zoning district is subject to the following standards:

1. *Uses Permitted.* The following uses are permitted:
 - a. ~~A single or two family living unit when used in conjunction with a commercial use.~~
 - b. Multi-family dwelling.
 - c. Group dwelling.
 - d. Education group.
 - e. Health and medical group.
 - f. Public recreation group.
 - g. Office-bank group.
 - h. Row houses.
 - i. Beauty shop, barber shop.
 - j. Group day-care.
 - k. Ancillary retail sales of material products directly related to the primary business such as hair care products being sold at a beauty shop or barber shop. Such product display areas shall not occupy more than 25% (twenty-five percent) of the gross floor area of the primary business.

The following uses are allowed as special uses pursuant to Section 14-03-08 hereof:

- a. Religious institution.
- b. Child care center.
- c. Mortuary/funeral homes.

2. *Development standards.*

- a. No principal building within eighty (80) feet of the North Washington Street right-of-way shall exceed three (3) stories in height.
- b. No principal one-story building shall have a footprint greater than fifty thousand (50,000) square feet; no principal two-story building shall have a footprint greater than thirty thousand (30,000) square feet and no principal building with three or more stories shall have a footprint greater than twenty thousand (20,000) square feet.
- c. All exterior lighting shall be designed and installed in a manner intended to limit the amount of off-site impacts to the adjacent residential uses to the west.
- d. Any illuminated signs shall be designed and installed in a manner intended to limit the amount of off-site impacts to the adjacent residential uses.
- e. All other development standards shall be as outlined in Section 14-04-08, RT – Residential District, of the City Code of Ordinances.

Section 2. Amendment. Section 14-03-02 of the Code of Ordinances of the City of Bismarck, North Dakota is hereby amended to read as follows:

The following described property shall be excluded from the A – Agricultural district and included within the Conditional CA – Commercial district:

Lot 2, Block 1, Daybreak Medical Addition.

This Conditional CA-Commercial zoning district is subject to the following development standards:

1. *Uses Permitted.* The following uses are permitted:

- a. ~~A single or two family dwelling when used in conjunction with a commercial use.~~
- b. Multifamily dwelling.
- c. Group dwelling.
- d. Row houses/townhouses (subject to RM residential zone regulations).

- e. Retail group A.
- f. Service group A.
- g. Office-bank group.
- h. Health-medical group.
- i. Public recreation group.
- j. Education group.
- k. Religious institution.

The following uses are allowed as special uses pursuant to Section 14-03-08 hereof:

- a. Temporary Christmas tree sales.
- b. Temporary farm and garden produce sales.
- c. Filling station.
- d. Seasonal nursery and bedding stock sales.
- e. Child care center.
- f. Drive-in bank.
- g. Retail liquor sales.

2. *Development standards.*

- a. No principal building shall exceed three (3) stories in height.
- b. No principal one-story building shall have a footprint greater than fifty thousand (50,000) square feet; no principal two-story building shall have a footprint greater than thirty thousand (30,000) square feet and no principal building with three or more stories shall have a footprint greater than twenty thousand (20,000) square feet.
- c. All exterior lighting shall be designed and installed in a manner intended to limit the amount of off-site impacts to the adjacent residential uses to the west.
- d. Any illuminated signs shall be designed and installed in a manner intended to limit the amount of off-site impacts to the adjacent residential uses.
- e. All other development standards shall be as outlined in Section 14-04-10, CA – Commercial District, of the City Code of Ordinances.

Section 3. Repeal. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4. Taking Effect. This ordinance shall take effect upon final passage, adoption and publication.

DESCRIPTION

BEING AUDITOR'S LOT F, PART OF SAINTS DRIVE RIGHT OF WAY, AND PART OF THE SW 1/4 OF SECTION 9 TOWNSHIP 139 NORTH RANGE 80 WEST BISMARCK, BURLEIGH COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SW 1/4; THENCE NORTH 00 DEGREES 31 MINUTES 10 SECONDS EAST, A DISTANCE OF 1569.80 FEET; THENCE SOUTH 89 DEGREES 23 MINUTES 43 SECONDS EAST, A DISTANCE OF 417.52 FEET; THENCE SOUTH 68 DEGREES 03 MINUTES 32 SECONDS EAST, A DISTANCE OF 875.67 FEET TO THE CENTERLINE OF SAINTS DRIVE RIGHT OF WAY; THENCE SOUTH 21 DEGREES 00 MINUTES 41 SECONDS WEST, ALONG SAID CENTERLINE, A DISTANCE OF 80.38 FEET; THENCE SOUTHWESTERLY 1 AND TO THE LEFT, CONTINUING ALONG SAID CENTERLINE, ON A 1200.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 458.14 FEET; THENCE SOUTH 00 DEGREES 04 MINUTES 13 SECONDS WEST, CONTINUING ALONG SAID CENTERLINE, A DISTANCE OF 717.77 FEET TO THE SOUTH LINE OF SAID SW 1/4; THENCE NORTH 89 DEGREES 56 MINUTES 24 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 1126.11 FEET TO THE POINT OF BEGINNING. CONTAINING 1,680,063 SQUARE FEET, MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, MATTHEW M. STERN, A REGISTERED LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON 2016, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

STATE OF NORTH DAKOTA)
COUNTY OF BURLEIGH)
SMYSON, HAGEN & CO. P.C.
909 BASIN AVENUE
BISMARCK, NORTH DAKOTA
58504
MATTHEW M. STERN
REGISTERED LAND SURVEYOR
N.D. REGISTRATION NO. 8299

ON THIS DAY OF 2017, BEFORE ME PERSONALLY APPEARED MATTHEW M. STERN, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES

APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE DAY OF 2017, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

WAYNE LEE YEAGER - CHAIRMAN
CARL D. HOKENSTAD - SECRETARY

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT AS AN ADDITION TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE ANNEXED PLAT. THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE DAY OF 2017.

ATTEST
KEITH J. HUNKE - CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "DAYBREAK MEDICAL ADDITION", BISMARCK, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

GABRIEL J. SCHELL
CITY ENGINEER

OWNERS' CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT 57 NORTH INVESTORS, LLP, RONALD & RUTH KNUTSON, AND MONTANA-DAKOTA UTILITIES CO., BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "DAYBREAK MEDICAL ADDITION", BISMARCK, NORTH DAKOTA, AND DO SO DEDICATE AND RE-DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO DEDICATE EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY, SANITARY SEWER, STORM SEWER & STORM WATER EASEMENTS.

STATE OF NORTH DAKOTA)
COUNTY OF BURLEIGH)
TODD A. NEISS
57 NORTH INVESTORS, LLP
OWNER, LOTS 1 & 2 BLOCK 1

ON THIS DAY OF 2017, BEFORE ME PERSONALLY APPEARED TODD A. NEISS OF 57 NORTH INVESTORS, LLP, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES

STATE OF NORTH DAKOTA)
COUNTY OF BURLEIGH)

RONALD M. KNUTSON
OWNER LOT 1 BLOCK 2
RUTH A. KNUTSON
OWNER LOT 1 BLOCK 2

ON THIS DAY OF 2017, BEFORE ME PERSONALLY APPEARED RONALD M. KNUTSON AND RUTH A. KNUTSON, KNOWN TO ME TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND THEY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME.

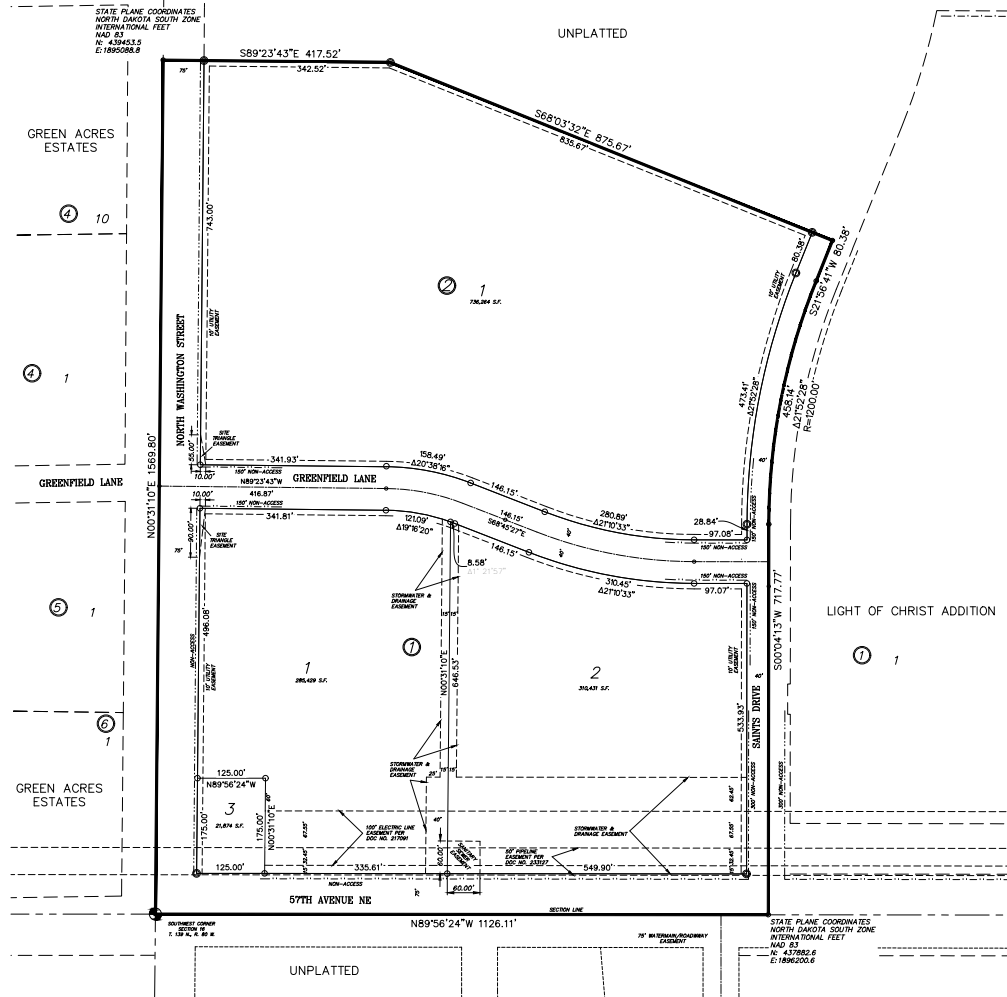
STATE OF NORTH DAKOTA)
COUNTY OF BURLEIGH)
NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES

MONTANA-DAKOTA UTILITIES CO.
OWNER, LOT 3 BLOCK

ON THIS DAY OF 2017, BEFORE ME PERSONALLY APPEARED MDU CO., KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES

DAYBREAK MEDICAL ADDITION BEING AUDITOR'S LOT F, PARTS OF SAINTS DRIVE RIGHT OF WAY, AND PART OF THE SW 1/4 OF SECTION 9 TOWNSHIP 139 NORTH RANGE 80 WEST BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



NOTES

BASIS OF BEARING:
NORTH DAKOTA STATE PLANE, SOUTH ZONE BY
CITY ORDINANCE.

COORDINATE DATUM:
NORTH DAKOTA STATE PLANE COORDINATE
SYSTEM
NAD 83 SOUTH ZONE
ADJUSTMENT OF 1986
UNITS ARE INTERNATIONAL FEET

BEARINGS AND DISTANCES MAY VARY FROM
PREVIOUS PLATS DUE TO DIFFERENT METHODS
OF MEASUREMENTS.

AREA DATA

LOTS	1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27,28,29,30,31,32,33,34,35,36,37,38,39,40,41,42,43,44,45,46,47,48,49,50,51,52,53,54,55,56,57,58,59,60,61,62,63,64,65,66,67,68,69,70,71,72,73,74,75,76,77,78,79,80,81,82,83,84,85,86,87,88,89,90,91,92,93,94,95,96,97,98,99,100
STREETS	1,260,063 S.F. 1.07 ACRES
TOTAL	1,260,063 S.F. 1.07 ACRES



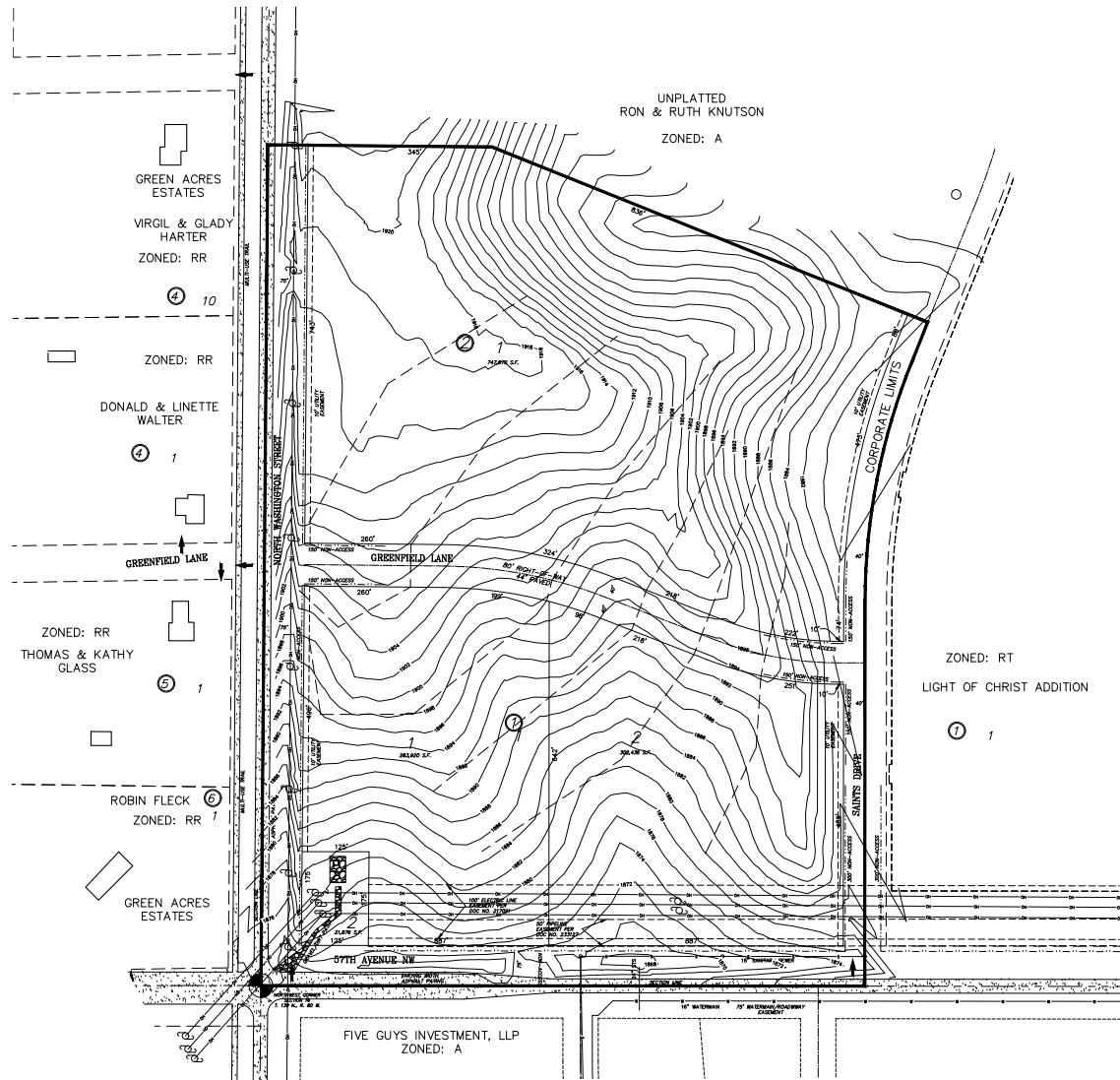
SWENSON, HAGEN & COMPANY P.C.

909 Basin Avenue
Bismarck, North Dakota 58504
sheng@swensonhagen.com
Phone (701) 223-2600
Fax (701) 223-2600
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management

DAYBREAK MEDICAL ADDITION

PART OF THE SOUTHWEST 1/4 OF SECTION 9
TOWNSHIP 139 NORTH, RANGE 80 WEST

BISMARCK, NORTH DAKOTA



LOCATION MAP

38.6 ACRES

EXISTING ZONING: AG

PROPOSED ZONING: CA/RT

OWNER: 57 NORTH INVESTORS, LLP
ADDRESS: 555 HIGHWAY 1804 NE
BISMARCK, ND 58503



0 100' 200'
SCALE - 1" = 100'

VERTICAL DATUM: NAVD 88

MARCH 23, 2017



SWENSON, HAGEN & COMPANY P.C.
900 Main Avenue
Bismarck, North Dakota 58504
Phone (701) 223-2600
Fax (701) 223-2600
Services:
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

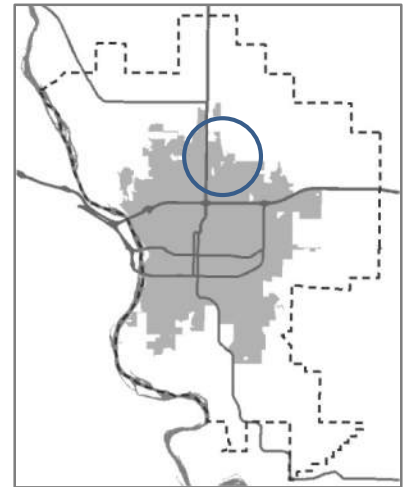
Agenda Item # 6
September 27, 2017

Application for: Minor Subdivision Final Plat

TRAKiT Project ID: MPLT2017-009

Project Summary

<i>Title:</i>	Meadowlark Commercial Tenth Addition
<i>Status:</i>	Planning & Zoning Commission – Public Hearing
<i>Owner(s):</i>	Sterling Properties, LLLP (owner) Enclave Development, LLC (applicant)
<i>Project Contact:</i>	Steve Rude, PLS, AE2S
<i>Location:</i>	In north Bismarck, north of 43rd Avenue NE and on the west side of North 19th Street. (a replat of Lot 1, Block 1, Meadowlark Commercial 6 th Addition First Replat and Lot 4, Block 1, Meadowlark Commercial 7 th Addition)
<i>Project Size:</i>	11.55 acres
<i>Request:</i>	Replat property to allow the construction of multi-family housing



Site Information

Existing Conditions

<i>Number of Lots:</i>	2 lots in 2 blocks
<i>Land Use:</i>	Undeveloped
<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	CG – Commercial
<i>Uses Allowed:</i>	CG – General commercial, multi-family residential, and offices
<i>Max Density Allowed:</i>	CG – 42 units / acre

Proposed Conditions

<i>Number of Lots:</i>	1 lot in 1 block
<i>Land Use:</i>	Multi-family residential
<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	CG – Commercial
<i>Uses Allowed:</i>	CG – General commercial, multi-family residential, and offices
<i>Max Density Allowed:</i>	CG – 42 units / acre

Property History

<i>Zoned:</i>	6/2005	<i>Platted:</i>	MLC 7 th - 02/2015 MLC 6 th - 06/8/2016	<i>Annexed:</i>	05/2012
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Staff Analysis

The applicant is requesting approval of a 1 lot, 1 block minor subdivision final plat titled Meadowlark Commercial Tenth Addition. The proposed subdivision would be a replat of Lot 1 in Block 1 of Meadowlark Commercial 6th Addition First Replat and Lot 4 in Block 1 of Meadowlark Commercial 7th Addition. The minor plat is being requested to support the construction of multi-family housing. The proposed development would be a continuation of the existing multifamily housing complex to the south.

The proposed plat would remove existing non-access lines, stormwater and utility easements that are no longer required for this development.

Required Findings of Fact (relating to land use)

1. All technical requirements for approval of a minor subdivision final plat have been met;
2. The requirement to provide a stormwater management plan has been waived by the City Engineer;

3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval if the minor subdivision final plat for Meadowlark Commercial Tenth Addition.

Attachments

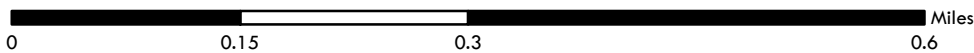
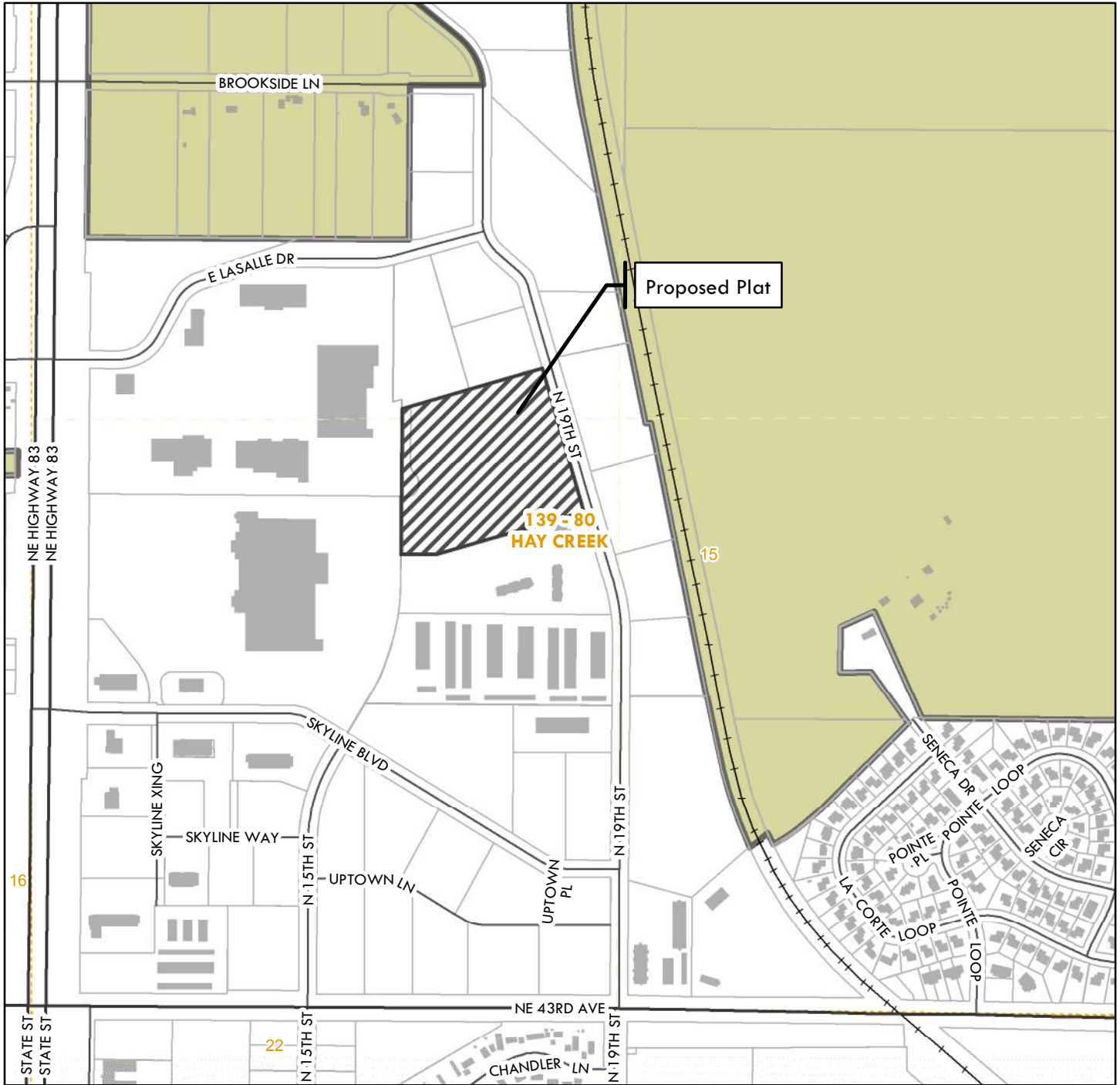
1. Location Map
2. Zoning and Plan Reference Map
3. Minor Subdivision Final Plat

Staff report prepared by: Will Hutchings, Planner
701-355-1850 | whutchings@bismarcknd.gov



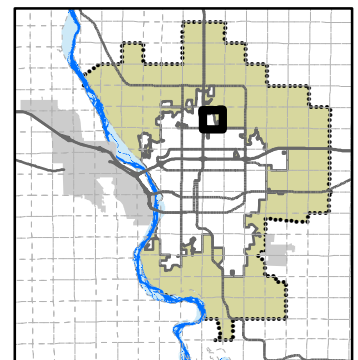
Proposed Minor Plat
Meadowlark Commercial Tenth Addition

Trakit Project MPLT2017-009
Location Map



City Limits Bismarck ETA Jurisdiction

Section, township, and
range indicated in orange



City of Bismarck
Community Development Department
Planning Division
September 11, 2017 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



Proposed Minor Plat

Meadowlark Commercial Tenth Addition

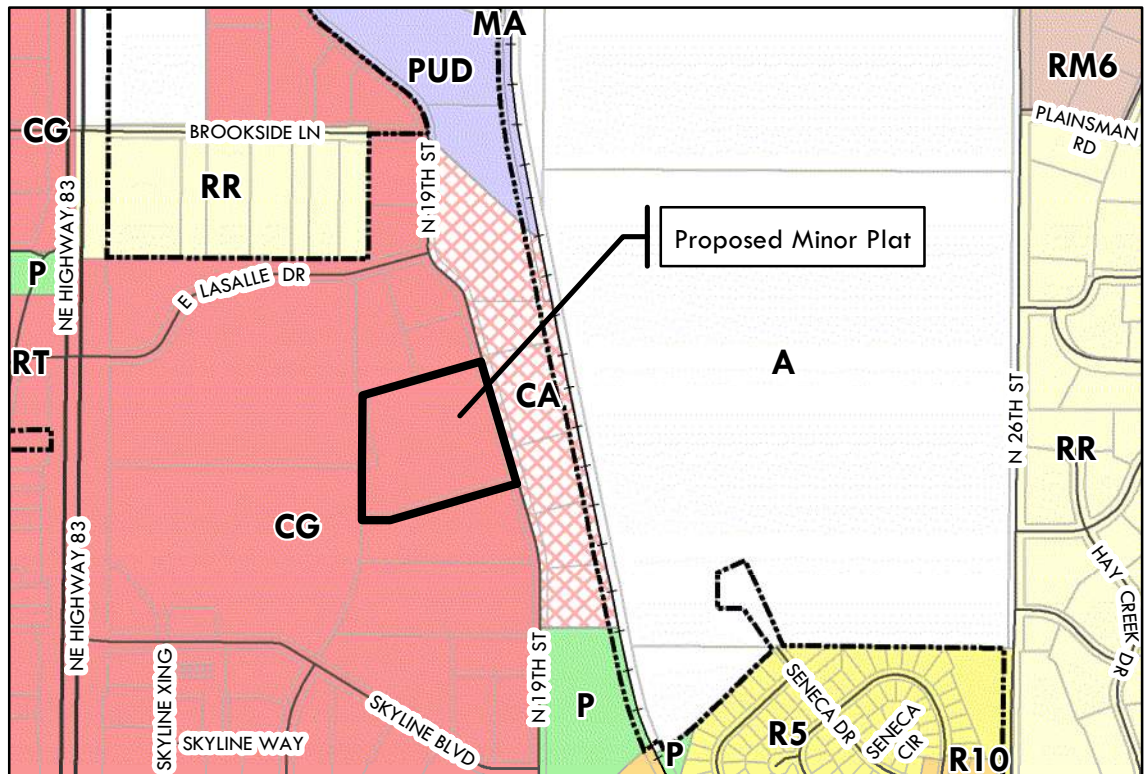
Zoning and Plan
Reference Map

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

Zoning Districts

A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

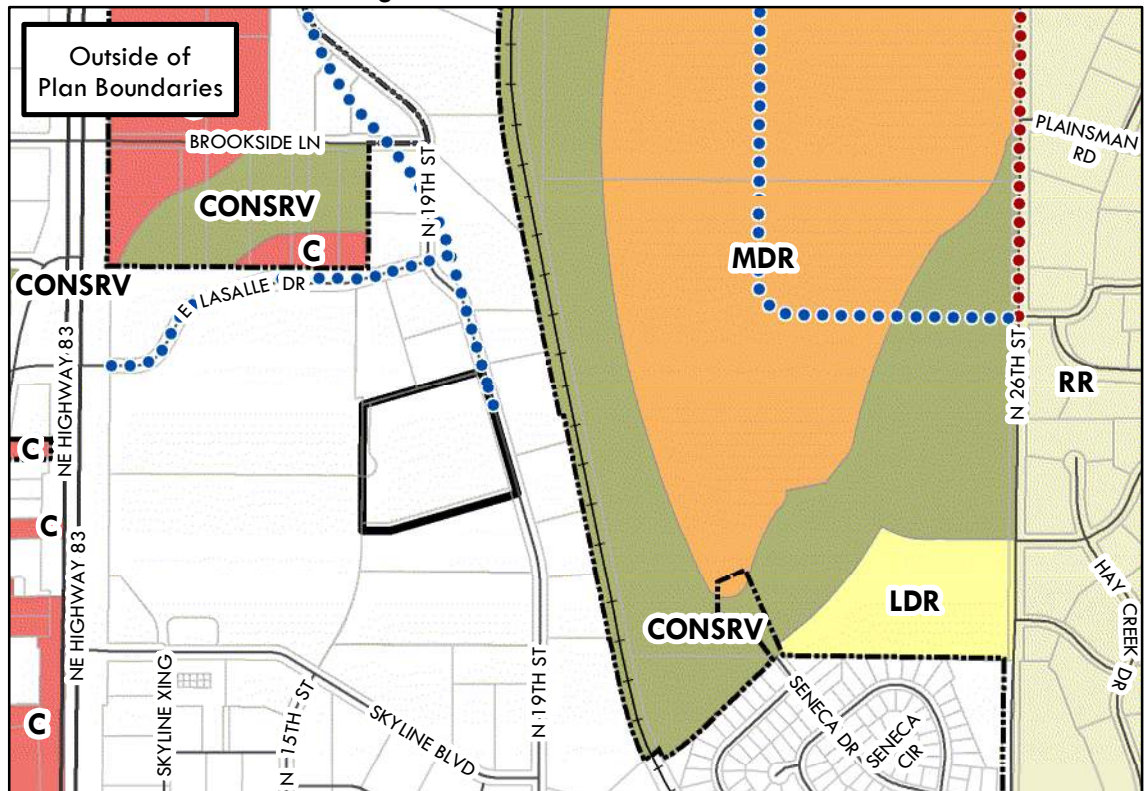
Zoning Map



Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Future Land Use Plan and Fringe Area Road Master Plan



Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector

0 0.15 0.3 0.6 Miles

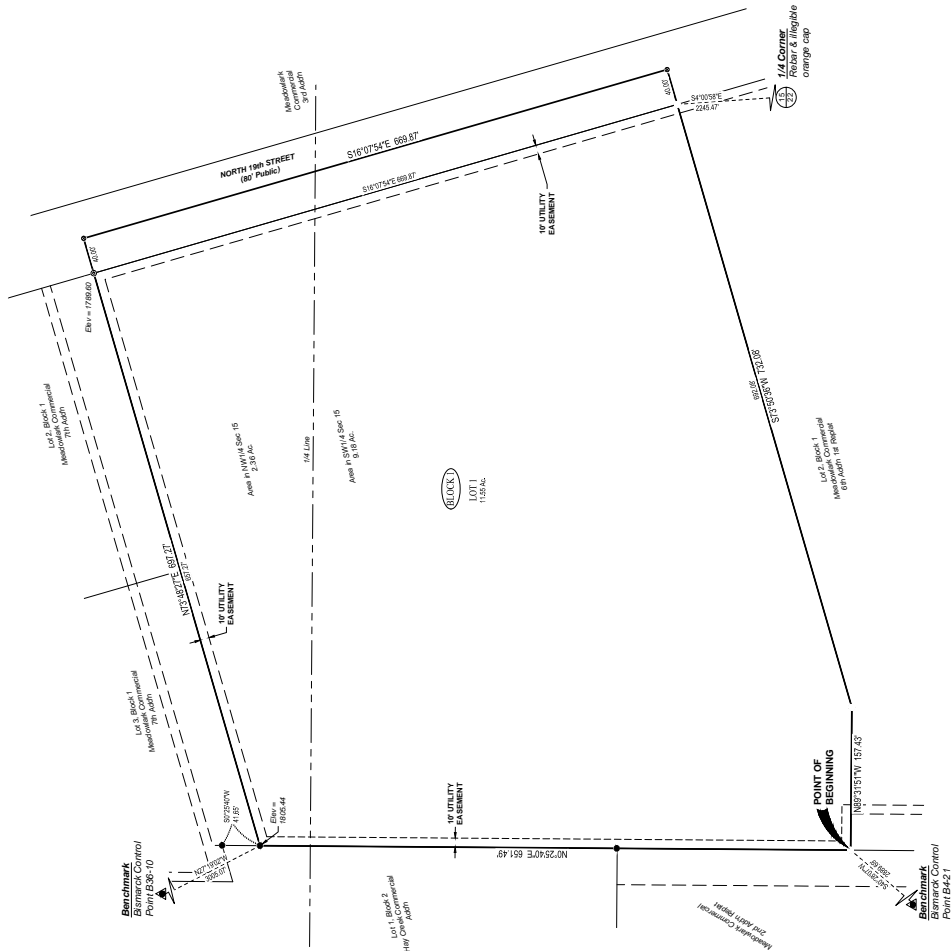
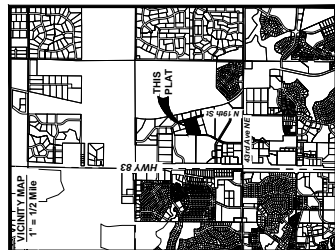
City Limits

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City of Bismarck
Community Development Dept.
Planning Division
September 20, 2017

A REPLAT OF LOT 1 IN BLOCK 1 OF MEADOWLARK COMMERCIAL 6th ADDITION 1st REPLAT, THE W1/2 OF THE NORTH 19TH STREET RIGHT-OF-WAY ADJOINING SAID LOT 1, AND LOT 4 IN BLOCK 1 OF MEADOWLARK COMMERCIAL 7th ADDITION IN THE WEST 1/2 SECTION 15, T139N, R80W, 5th PRINCIPAL MERIDIAN, CITY OF BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

GABE SCHELL, PE
CITY ENGINEER



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

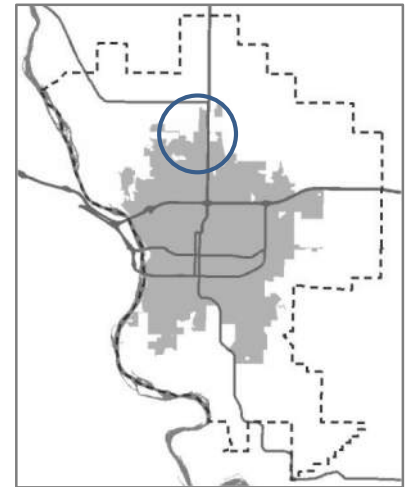
Agenda Item # 7
September 27, 2017

Application for: Minor Subdivision Final Plat

TRAKiT Project ID: MPLT2017-010

Project Summary

Title:	Ace Hardware Addition
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Real Hardware North, LLC
Project Contact:	Todd Marshal, RLS, Houston Engineering
Location:	In north Bismarck, north of and at the intersection with 43rd Avenue NE, west of US Highway 83, along the east side of Ottawa Street (a replat of Lot 1, Block 3, 43rd Avenue Commercial Park).
Project Size:	6.69 acres
Request:	Replat property for future commercial development.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 lot in 1 block	Number of Lots:	2 lots in 1 block
Land Use:	Commercial	Land Use:	Commercial
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	CG – Commercial	Zoning:	CG – Commercial
Uses Allowed:	CG – General commercial, multi-family residential, and offices	Uses Allowed:	CG – General commercial, multi-family residential, and offices
Max Density Allowed:	CG – 42 units / acre	Max Density Allowed:	CG – 42 units / acre

Property History

Zoned:	04/1980	Platted:	1953 Wutzke's 2nd Subdivision (portion) 08/2007 – 43rd Avenue Commercial Park	Annexed:	10/2000 Wutzke's 2nd Subdivision (portion) 08/2007 – 43rd Avenue Commercial Park
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Staff Analysis

The applicant is requesting approval of a minor subdivision final plat is being requested for future development of Lot 2, Block 1, of the proposed plat. An existing retail store, Ace Hardware, is currently located on Lot 1, Block 1 of the proposed plat.

The proposed minor subdivision final plat contains a sanitary easement, stormwater and detention easements and an access easement. The proposed access easement would provide access to both Lots 1 and 2 via the existing access point along Ottawa Street.

The City Code of Ordinances requires a front yard setback of fifteen (15) feet is required from the access easement to the existing retail store, Ace Hardware. According to the applicant's consulting engineer this setback distance will be met.

Required Findings of Fact (relating to land use)

1. All technical requirements for approval of a minor subdivision final plat have been met;

2. The requirement to provide a stormwater management plan has been waived by the City Engineer;
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the minor subdivision final plat for Ace Hardware Addition.

Attachments

1. Location Map
2. Zoning and Plan Reference Map
3. Minor Subdivision Final Plat

Staff report prepared by: Jenny Wollmuth, AICP, CFM
701-355-1845 | jwollmuth@bismarcknd.gov

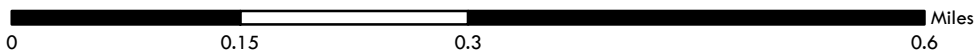
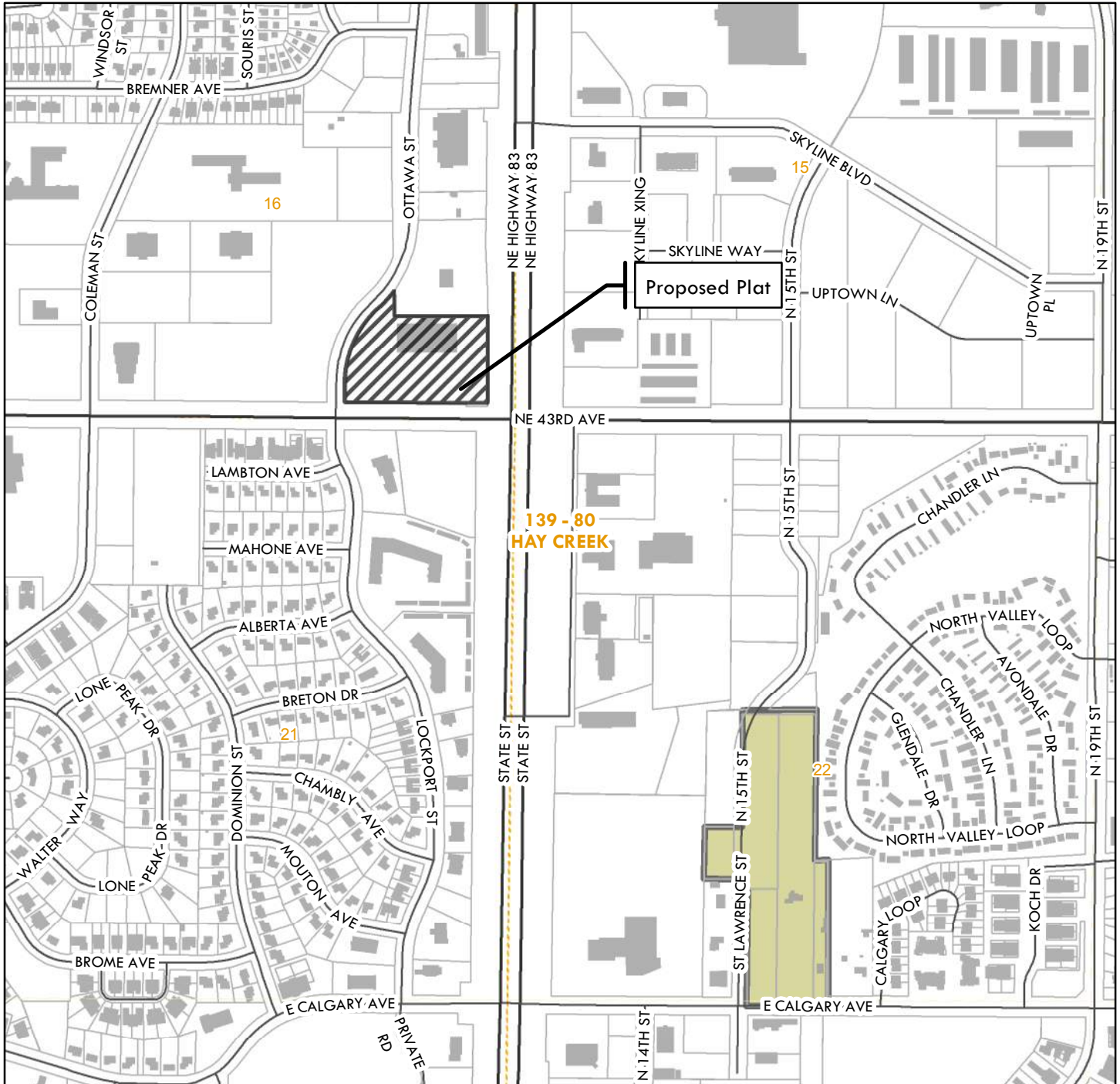


Proposed Minor Plat

Ace Hardware Addition

Trakit Project MPLT2017-010

Location Map



City Limits



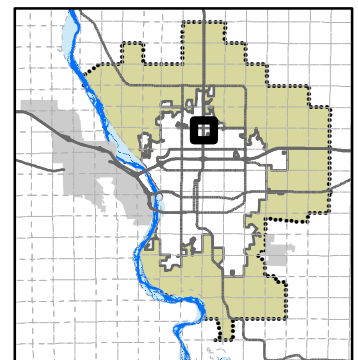
Bismarck ETA Jurisdiction

Section, township, and
range indicated in orange



City of Bismarck
Community Development Department
Planning Division
August 25, 2017 (HLB)

This map is for representational use only and does
not represent a survey. No liability is assumed as
to the accuracy of the data delineated hereon.





Proposed Minor Plat

Ace Hardware Addition

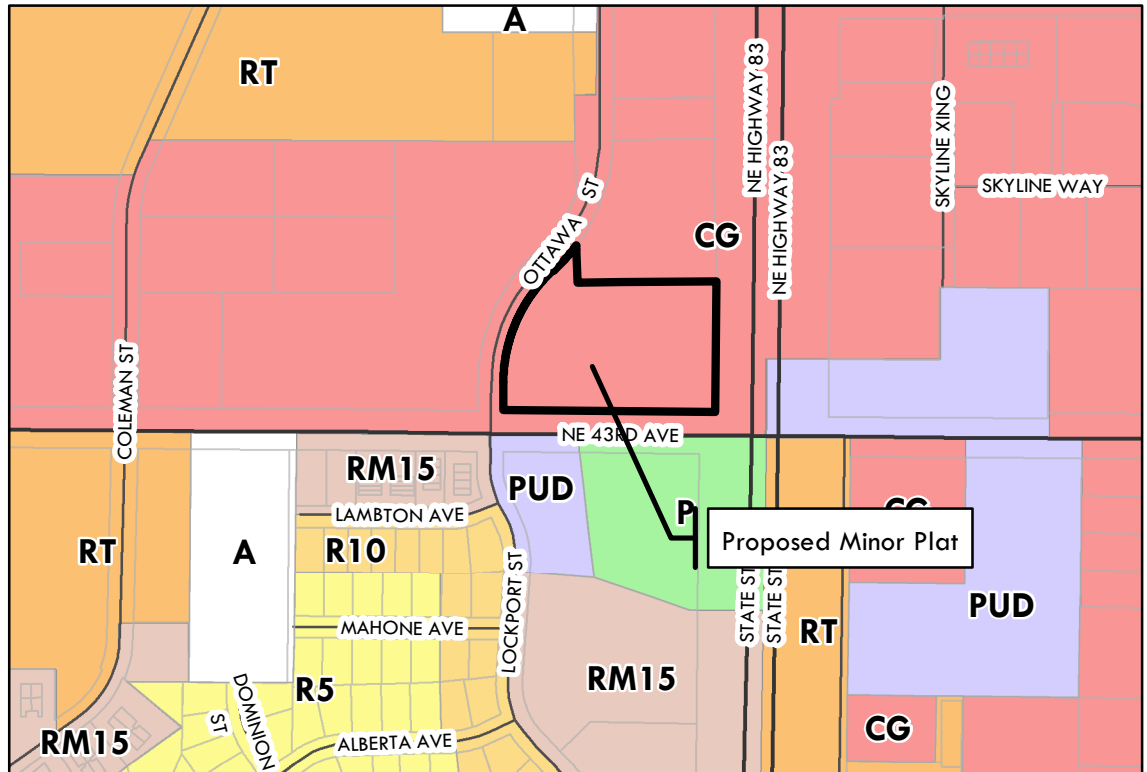
Zoning and Plan
Reference Map

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

Zoning Districts

A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

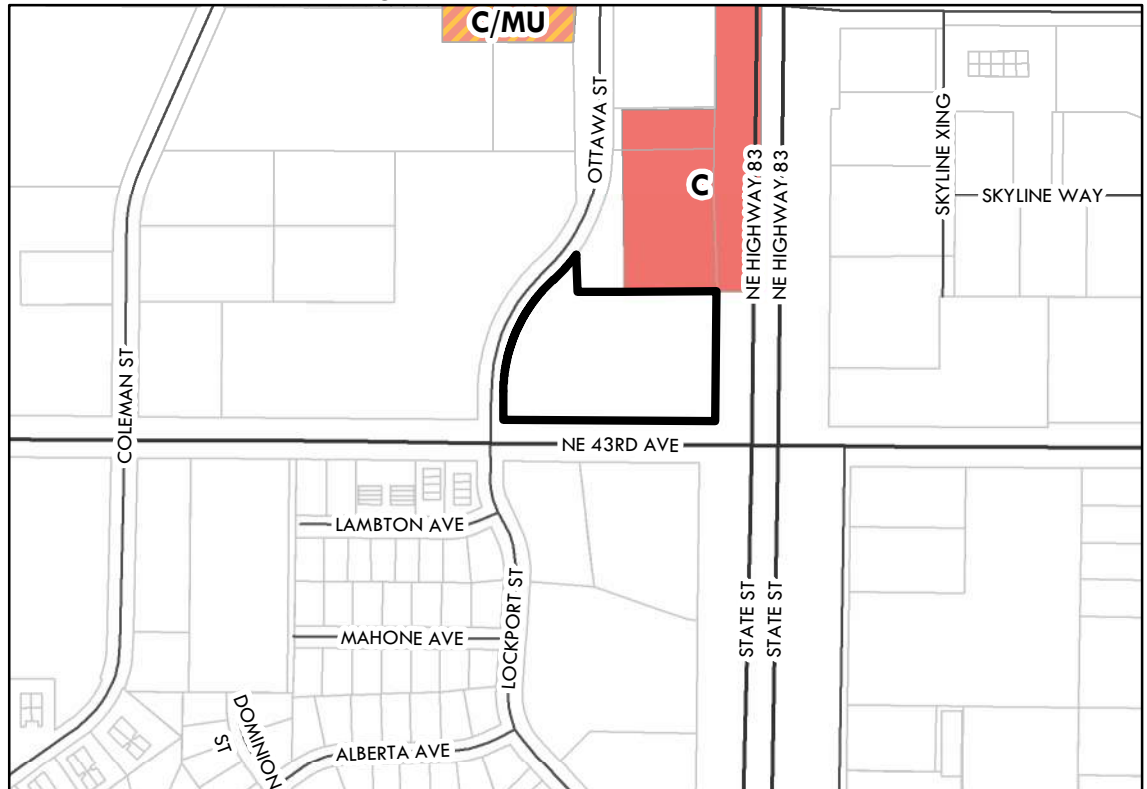
Zoning Map



Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Future Land Use Plan and Fringe Area Road Master Plan



Fringe Area Road Master Plan

- ● ● Planned Arterial
- ● ● Planned Collector

0 0.075 0.15 0.3 Miles



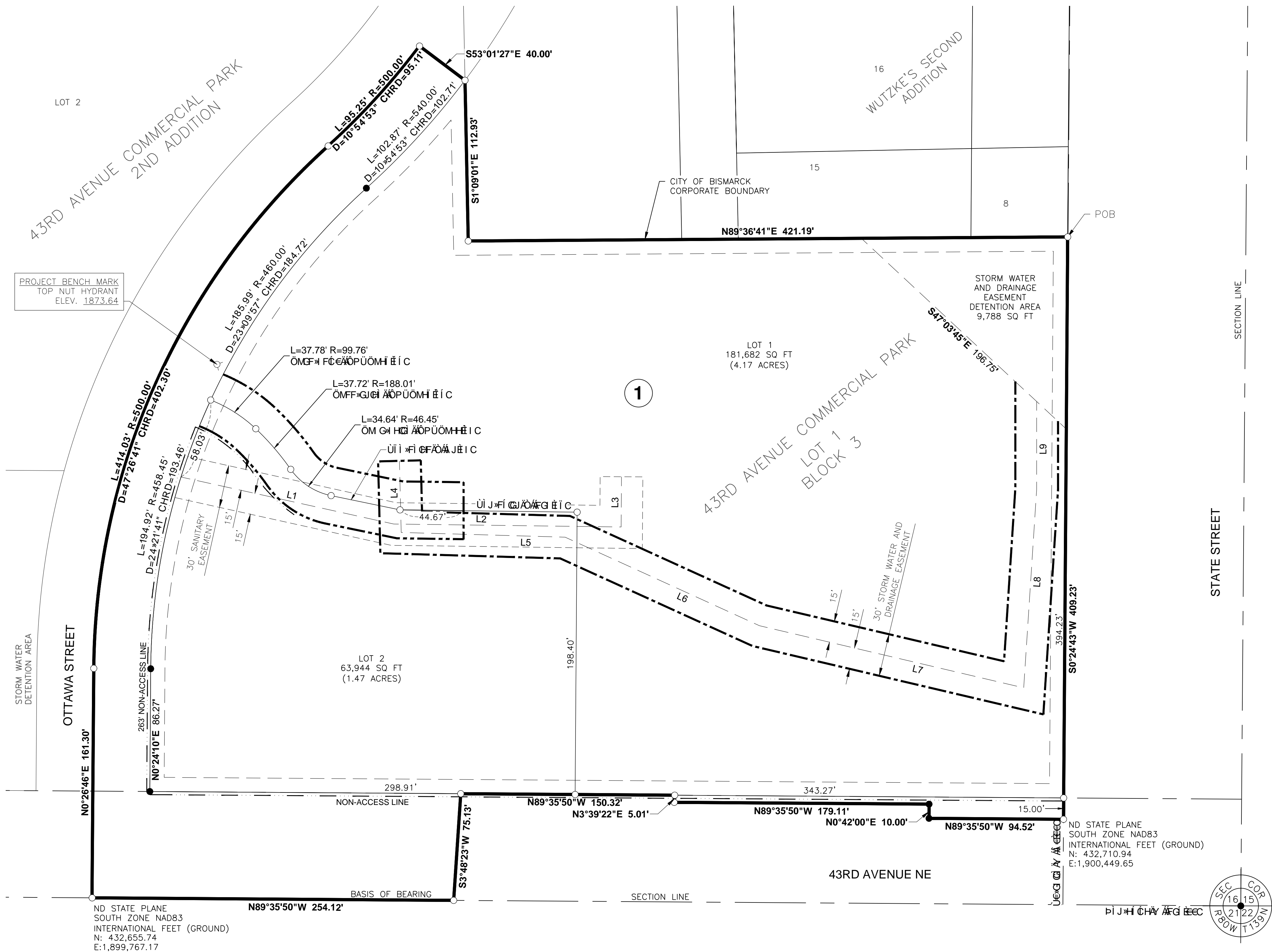
This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck
Community Development Dept.
Planning Division
September 19, 2017

ACE HARDWARE ADDITION

BEING A REPLAT OF LOT 1, BLOCK 3, 43RD AVENUE COMMERCIAL PARK AND THE ADJACENT RIGHT OF WAY OF 43RD AVE NE AND OTTAWA STREET, LOCATED IN THE SE 1/4 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN BURLEIGH COUNTY, NORTH DAKOTA



LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	153.07'	U1 I W G F A O
L2	159.81'	U1 J W F A O
L3	35.29'	P E W G A F A O
L4	50.31'	U F W G A F A O
L5	115.23'	U1 I W G A F A O
L6	150.06'	U1 I W G A F A O
L7	190.71'	U1 I W A T A F A O
L8	139.78'	P H A I G A F A O
L9	46.00'	P E W G A F A O

LEGEND

PLAT BOUNDARY	—————
LOT LINE	—————
EASEMENT	- - - - -
ACCESS EASEMENT	- - - - -
SANITARY EASEMENT	- - - - -
STORM EASEMENT	- - - - -
SETBACK	—————
NON ACCESS LINE	—————
IRON MONUMENT FOUND	●
IRON MONUMENT SET	○
MEASURED DISTANCE	303.20
MEASURED BEARING	N89°27'53"W

PLAT INFORMATION

EXISTING ZONING: CG
PROPOSED ZONING: CG

LOT 1 4.17± ACRES
LOT 2 1.47± ACRES
RIGHT OF WAY 1.05± ACRES
TOTAL ACRES 6.69± ACRES

BASIS OF BEARINGS: ND STATE PLANE COORDINATE SYSTEM, SOUTH ZONE.
COORDINATE DATUM: ND STATE PLANE, NAD 83 SOUTH ZONE (ADJUSTMENT 1986),
INTERNATIONAL FOOT.
NAVD 88 VERTICAL DATUM.

ALL DISTANCES ARE MEASURED AT GROUND, GRID TO GROUND SCALE FACTOR IS 1.0001485221

LOT 2: 63,944.5 SQ FT 26.03% TOTAL AREA
STORM WATER AREA: 9,788 SQ FT
STORM WATER AREA TO LOT 2 BY PERCENTAGE: 2,548.0 SQ FT

BENCHMARK

TOP NUT OF HYDRANT
N: 4333030.585'
E: 1899854.832'
ELEV. 1873.64' NAVD 88

DESCRIPTION

BEING A REPLAT OF LOT 1, BLOCK 3, 43RD AVENUE COMMERCIAL PARK AND THE ADJACENT RIGHT OF WAY OF 43RD AVE NE AND OTTAWA STREET, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST OF THE 5TH PRINCIPAL MERIDIAN, BURLEIGH COUNTY, NORTH DAKOTA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1 BLOCK 3 OF SAID 43RD AVENUE COMMERCIAL PARK; THENCE SOUTH 0°24'43" WEST, ON AND ALONG THE EAST LINE OF SAID LOT 1 AND IT'S EXTENSION, A DISTANCE OF 409.23 FEET TO THE NORTH RIGHT OF WAY LINE OF 43RD AVENUE NE; THENCE NORTH 89°35'50" WEST, ON AND ALONG SAID NORTH LINE, A DISTANCE OF 94.52 FEET; THENCE NORTH 0°42'00" EAST, CONTINUING ON AND ALONG SAID NORTH LINE, A DISTANCE OF 10.00 FEET; THENCE NORTH 89°35'50" WEST, CONTINUING ON AND ALONG SAID NORTH LINE, A DISTANCE OF 179.11 FEET; THENCE NORTH 3°39'22" EAST, CONTINUING ON AND ALONG SAID NORTH LINE, A DISTANCE OF 5.01 FEET; THENCE NORTH 89°35'50" WEST, CONTINUING ON AND ALONG SAID NORTH LINE, A DISTANCE OF 150.32 FEET; THENCE SOUTH 3°48'23" WEST, CONTINUING ON AND ALONG SAID NORTH LINE, A DISTANCE OF 75.13 FEET TO THE SOUTH LINE OF SAID SECTION 16; THENCE NORTH 89°35'50" WEST, ON AND ALONG SAID SOUTH LINE, A DISTANCE OF 254.12 FEET TO THE INTERSECTION OF 43RD AVENUE NORTHEAST AND OTTAWA STREET; THENCE NORTH 0°26'46" EAST, ON AND ALONG THE CENTERLINE OF SAID OTTAWA STREET, A DISTANCE OF 161.30 FEET; THENCE NORTHEASTERLY AND TO THE RIGHT, CONTINUING ON AND ALONG SAID CENTERLINE ON A 500.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 414.03 FEET, SAID CURVE HAVING A CHORD BEARING NORTH 24°10'06" EAST, A DISTANCE OF 402.30 FEET; THENCE NORTHEASTERLY AND TO THE LEFT, CONTINUING ON AND ALONG SAID CENTERLINE ON A 500.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 95.25 FEET, SAID CURVE HAVING A CHORD BEARING NORTH 42°28'00" EAST, A DISTANCE OF 95.11 FEET; THENCE SOUTH 53°01'27" EAST, A DISTANCE OF 40.00 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 1; THENCE SOUTH 1°09'01" EAST, ON AND ALONG THE NORTHERLY LINE OF SAID LOT 1, A DISTANCE OF 112.93 FEET; THENCE NORTH 89°36'41" EAST, CONTINUING ON AND ALONG THE NORTHERLY LINE OF SAID LOT 1, A DISTANCE OF 421.19 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 6.69 ACRES, MORE OR LESS

OWNER'S CERTIFICATE AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT JEFF HINZ, PRESIDENT OF REAL HARDWARE NORTH LLC, BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESIGNATED HEREON TO BE SURVEYED AND PLATTED AS "ACE HARDWARE ADDITION", TO THE CITY OF BISMARCK NORTH DAKOTA AND DOES SO DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SANITARY SEWER, WATER, CULVERTS, STORMWATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HERE ON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO DEDICATE EASEMENTS TO RUN WITH THE LAND FOR LANDSCAPE, GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS LANDSCAPE, STORMWATER, WATERMAIN, SANITARY SEWER AND/OR UTILITY EASEMENTS.

JEFF HINZ, (PRESIDENT OF REAL HARDWARE NORTH)
805 SOUTH 7TH STREET
BISMARCK, NORTH DAKOTA 58503

STATE OF NORTH DAKOTA }
COUNTY OF _____ } ss

ON THIS _____ DAY OF _____, 2017, BEFORE ME PERSONALLY APPEARED JEFF HINZ, KNOWN TO ME TO BE THE PERSONS DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND THEY ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME ON BEHALF OF THE CORPORATION.

_____, NOTARY PUBLIC
MY COMMISSION EXPIRES _____, 20____.

APPROVAL OF CITY PLANNING COMMISSION:

THE ADDITION OF LAND AS SHOWN ON THE PLAT HAS BEEN APPROVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF BISMARCK ON THE _____ DAY OF _____, 2017, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY SAID PLANNING AND ZONING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF BISMARCK.

WAYNE LEE YEAGER — CHAIRMAN

CARL D. HOKENSTAD — SECRETARY

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED SUBDIVISION OF LAND AS SHOWN ON THIS PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE PLAT AS AS AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE PLAT. THE FOREGOING ACTION OF THE BOARD OF COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE _____ DAY OF _____, 2017.

ATTEST
KEITH J. HUNKE — CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "ACE HARDWARE ADDITION", BISMARCK, NORTH DAKOTA AS SHOWN ON THE PLAT.

GABRIEL J. SCHELL, CITY ENGINEER

SURVEYOR'S CERTIFICATE AND ACKNOWLEDGEMENT:

I, TODD MARSHALL, A REGISTERED LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON THE 17TH DAY OF DECEMBER 2012, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. MONUMENTS TO BE SET PRIOR TO PLAT RECORDATION.

TODD MARSHALL, LAND SURVEYOR
LICENSE NO. 4431

HOUSTON ENGINEERING, INC
3712 LOCKPORT STREET
BISMARCK, NORTH DAKOTA, 58501

STATE OF NORTH DAKOTA }
COUNTY OF BURLEIGH } ss

ON THIS _____ DAY OF _____, 2017 BEFORE ME PERSONALLY APPEARED TODD MARSHALL, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

_____, NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____, 20____.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

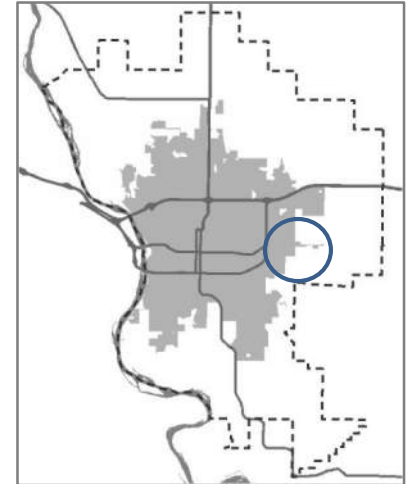
Agenda Item # 8
September 27, 2017

Application for: Zoning Change

TRAKiT Project ID: ZC2017-016

Project Summary

Title:	Lot 5 and the North 50 feet of Lot 6, Block 1, Gomke Estates
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Quality Title Accommodation Party I, Inc.
Project Contact:	Ryan Deichert
Location:	East of Bismarck, between 52 nd Street Northeast and 66 th Street Northeast, north of East Main Avenue / County Highway 10.
Project Size:	2.5 acres
Request:	Rezone property for a lot combination and the construction of a 4,800 square foot storage / light industrial building.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	2 parcels	Number of Lots:	2 parcels
Land Use:	Undeveloped	Land Use:	Undeveloped
Designated GMP	Industrial	Designated GMP	Industrial
Future Land Use:		Future Land Use:	
Zoning:	CA – Commercial MA – Industrial	Zoning:	MA – Industrial
Uses Allowed:	CA – Neighborhood commercial MA – Light industrial, general commercial, warehouses, manufacturing and shop condos	Uses Allowed:	MA – Light industrial, general commercial, warehouses, manufacturing and shop condos
Max Density Allowed:	CA – 30 units / acre MA – N/A	Max Density Allowed:	MA – N/A

Property History

Zoned:	09/1977 (Lot 5) 07/1998 (N 50' of Lot 6)	Platted:	09/1986	Annexed:	N/A
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Staff Analysis

The Planning and Zoning Commission considered the proposed zoning change at their meeting on August 26, 2017 and called for a public hearing.

The applicant owns six lots within Gomke Estates, and resides in a single-family dwelling north of the proposed zoning change. Lots 1, 2, 3, and 4 are zoned RR – Residential and, in addition to the single-family dwelling on Lot 4, there are a number of rural residential accessory buildings located throughout the lots owned by the applicant.



The proposed zoning change is being requested to allow for the combination of Lot 5, zoned CA – Commercial, and the North 50 feet of Lot 6, zoned MA – Industrial, and the construction of a 4,800 square foot storage / light industrial building on the combined parcel. Lots cannot be combined if located in different zoning districts.

The Future Land Use Plan in the 2014 Growth Management Plan, as amended, identifies this area as industrial. Based on the proposed uses for the building, a zoning change from the CA – Commercial and MA – Industrial zoning districts to the MA – Industrial zoning district conforms to this plan.

Required Findings of Fact (relating to land use)

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck, Burleigh County and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The Gibbs Township Board of Supervisors has recommended approval of the proposed zoning change;
5. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
6. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning change for Lot 5 and the North 50 feet of Lot 6, Block 1, Gomke Estates from the CA –

(continued)

Commercial and MA – Industrial zoning districts to the
MA – Industrial zoning district.

2. Zoning and Plan Reference Map
3. Township Resolution

Attachments

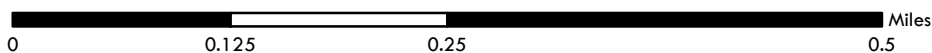
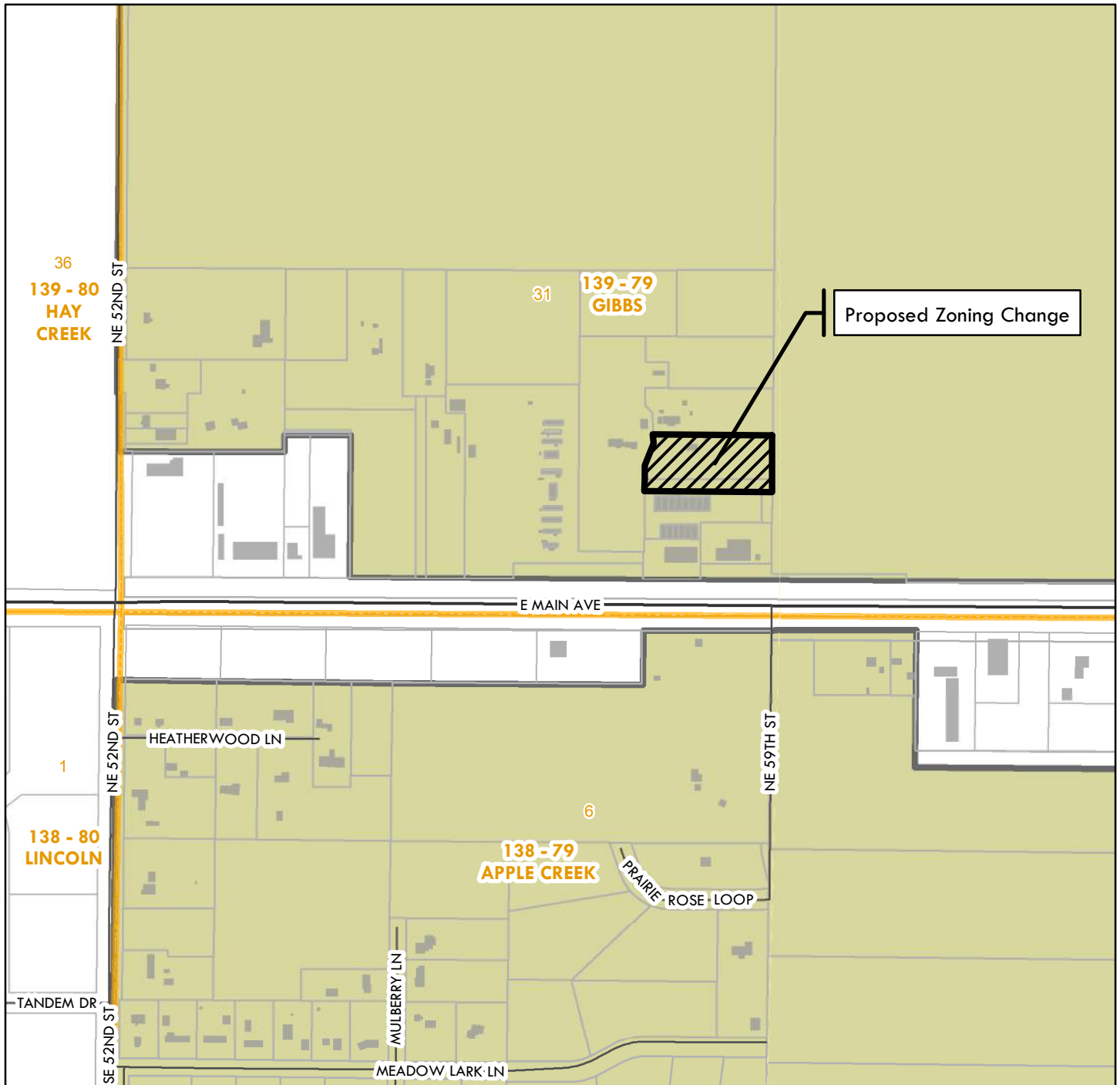
1. Location Map
-

Staff report prepared by: Jenny Wollmuth, AICP, CFM
701-355-1845 | jwollmuth@bismarcknd.gov



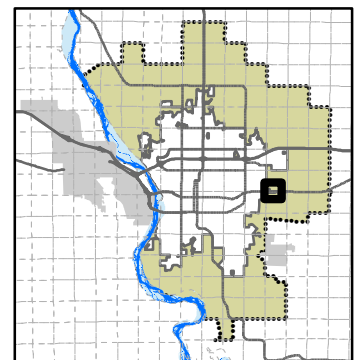
Proposed Zoning Change (CA to MA)
Lot 5 and the North 50 feet of Lot 6, Block 1, Gomke Estates

Project
Location Map



 City Limits  Bismarck ETA Jurisdiction

Section, township, and
range indicated in orange



City of Bismarck
Community Development Department
Planning Division
August 17, 2017 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



Proposed Zoning Change (CA and MA to MA)

Lot 5 and the North 50 feet of Lot 6, Gomke Estates

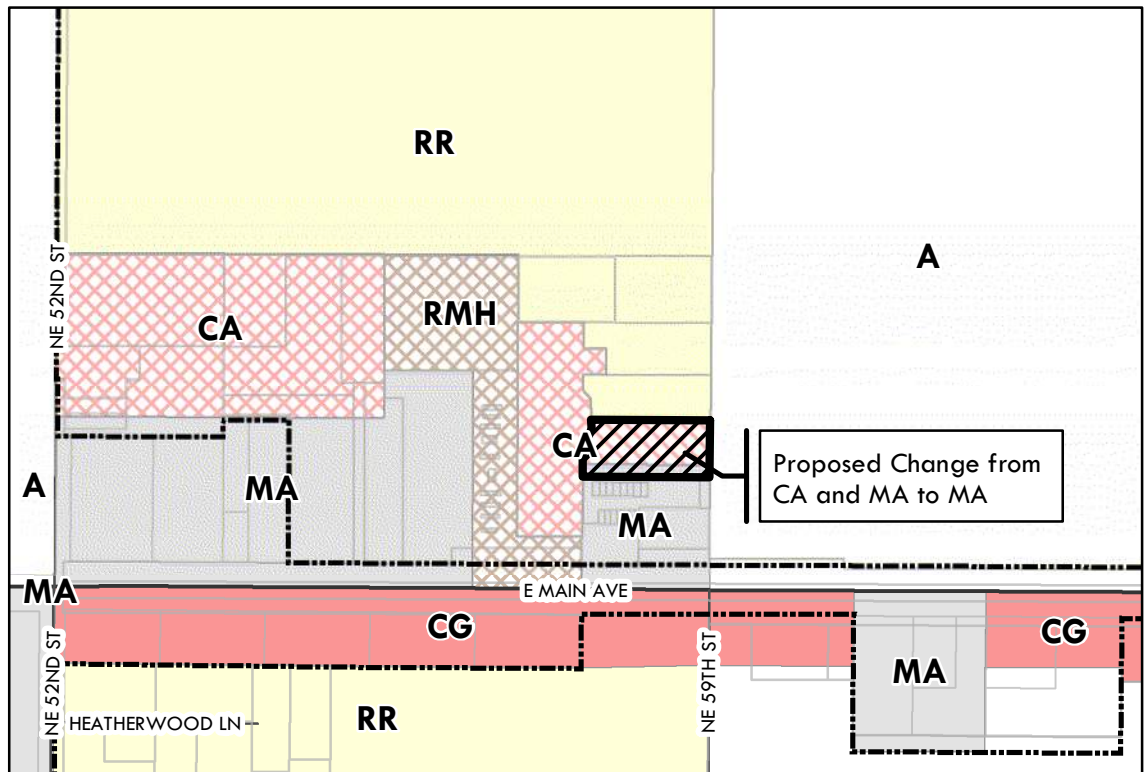
Zoning and Plan
Reference Map

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

Zoning Districts

A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

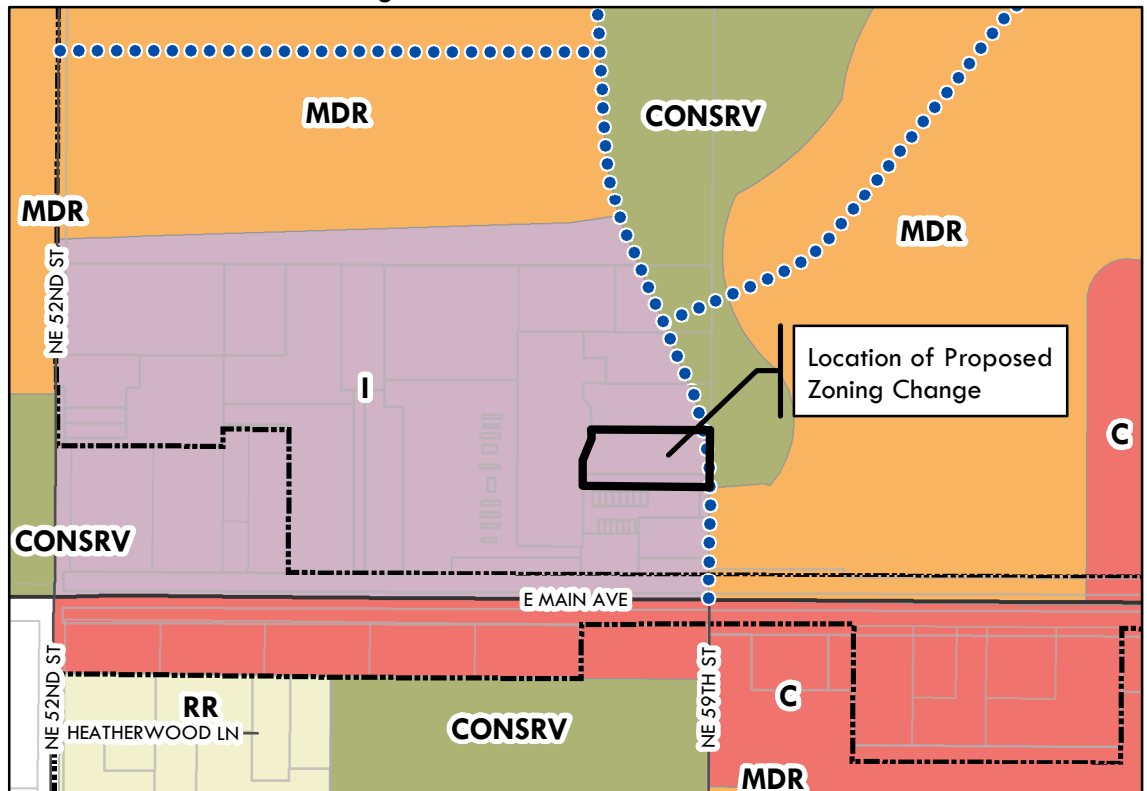
Zoning Map



Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Future Land Use Plan and Fringe Area Road Master Plan



Fringe Area Road Master Plan

- ● ● Planned Arterial
- ● ● Planned Collector

0 0.1 0.2 0.4 Miles

City Limits

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck
Community Development Dept.
Planning Division
August 16, 2017

RESOLUTION

WE, THE BOARD OF TOWNSHIP SUPERVISORS OF GIBBS TOWNSHIP,
BURLEIGH COUNTY, NORTH DAKOTA, HAVE BEEN ADVISED OF THE
PROPOSED ZONING CHANGE FOR LOT 5, BLOCK 1, GOMKE ESTATES AND
HEREBY RECOMMEND TO THE BOARD OF CITY COMMISSIONERS THAT
SAID ZONING CHANGE BE (APPROVED)(DENIED).
(PLEASE ATTACH CONDITIONS, IF ANY, TO THE BOARD'S ACTION.)

IF THE TOWNSHIP IS RECOMMENDING DENIAL, PLEASE LIST THE REASONS:



CHAIRMAN, TOWNSHIP BOARD



ATTEST: TOWNSHIP CLERK

8/7/2017



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 9
September 27, 2017

Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2017-007

Project Summary

Title:	Contextual Residential Front Yard Setbacks
Status:	Planning & Zoning Commission – Public Hearing
Project Contact:	Daniel Nairn, AICP, Planner
Sections Amended:	Sections 14-04-03 (R5 Residential Zoning District), 14-04-05 (RMH Residential Zoning District), 14-04-06 (R10 Residential Zoning District), and 14-04-07 (RM Residential Zoning District)
Request:	Amend the zoning ordinance to apply front yard setbacks in developed residential areas that are based on measurements taken from surrounding properties.

Staff Analysis

The Planning and Zoning Commission reviewed the proposed zoning ordinance text amendment on August 23, 2017 and called for a public hearing on the item.

The Community Development Department is initiating a zoning ordinance text amendment to provide an alternative means for measuring front yard setbacks in areas that are already largely developed.

The 2016 Infill and Redevelopment Plan, adopted by the Planning and Zoning Commission in November 2016 and the Board of City Commissions in February of 2017, included this revision as an implementation strategy:

Implementation Strategy #1: Amend the Zoning Ordinance to allow front, side, and rear yard setbacks for new infill construction and additions to match the existing setbacks of neighboring buildings on the street based on a formula stipulated in the Zoning Ordinance.

Although future revisions to side and rear yard setbacks may be proposed, this amendment only applies to front yard setbacks.

Application of Contextual Setbacks

The alternative means for measuring setbacks would only apply to certain residential zoning districts: R5, RMH, R10, and RM. Currently, all front yards in each of these zoning districts must be at least 25 feet, with the exception of the RMH Residential zoning district, which requires manufactured homes to be no greater than 20 feet from the property line. The only exception available, even in neighborhoods that are already broadly non-conforming, is to seek a variance from the Board of Adjustment.

As proposed, contextual setbacks would only apply to areas that were platted prior to 1979. This includes most of the central and older neighborhoods of Bismarck. The date was selected because this is when all side of a lot facing the street began to be considered front yards. Previously, a shorter side yard setback could be adjacent to the side street on corner lots. Most areas platted after 1979 conform to the current setback requirements.

Calculation of the Setback

Where applicable, the front yard setback is based on six nearby “reference lots,” which are chosen based on the following rules:

1. Reference lots are the three closest lots on either side of a subject lot.

(continued)

2. Reference lots are on the same side of the same street.
3. Reference lots must contain a residential structure to measure.
4. Local streets can be crossed, but not collector or arterial streets
5. Reference lots must be in the same zoning district.
6. If three reference lots cannot be selected from one side, they are added to the other side.

Once the reference lots are determined, the front yard setback to the same street is measured for each one. The required setback for the subject lot is the median (the middle of the series) of the reference lots, plus or minus three feet. However, the building may not be set back closer than the closest of the six or further than the furthest of the six. A set of reference illustrations is attached.

There is an exception for garages. To prevent cars from parking across a sidewalk, all faces of garages must be set back at least 20 feet, regardless of the measurements from surrounding properties. This applies to attached or detached garages. This is the amount of space required to park a vehicle in front of the garage without crossing the public sidewalk.

Possible Outcomes of Contextual Setbacks

The intention of this ordinance is to find a reasonable setback that is truly based on the neighborhood context and determined objectively in a way that can be easily administered by staff.

Contextual setbacks may be used for new infill construction or it may also apply in situations where an occupant of an existing non-conforming residence applies for a building permit to alter or construct and addition to the residence. It should be noted that the existing ordinance allows certain encroachments into the front yard, such as porches and low uncovered decks. These allowances would still be in effect.

The intent is also to reduce the need for variances in such cases that the proposal is clearly aligned with other setbacks in the neighborhood. In these cases, the variance process may only impose unnecessary cost and unpredictability on appropriate infill projects and reinvestment in older homes.

Required Findings of Fact (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning ordinance text amendment for Sections 14-04-03 (R5 Residential Zoning District), 14-04-05 (RMH Residential Zoning District), 14-04-06 (R10 Residential Zoning District), and 14-04-07 (RM Residential Zoning District) of the City Code of Ordinances, relating to contextual residential front yard setbacks, as outlined in the attached draft ordinance.

Attachments

1. Draft zoning ordinance amendment
2. Map of application area
3. Illustrations of setback examples

Staff report prepared by: Daniel Nairn, AICP, Planner
701-355-1854 | dnairn@bismarcknd.gov

CITY OF BISMARCK

Ordinance No. XXXX

First Reading _____

Second Reading _____

Final Passage and Adoption _____

Publication Date _____

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-04-03, 14-04-05, 14-04-06, AND 14-04-07 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO SETBACKS IN DEVELOPED AREAS OF RESIDENTIAL ZONING DISTRICTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-04-03 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the R5 Residential Zoning District is hereby amended and re-enacted to read as follows:

14-04-03. R5 Residential District. In any R5 residential district the following regulations shall apply:

* * * * *

7. **Front yard**. Each lot or parcel shall have a front yard for principal or accessory structures not less than twenty-five (25) feet in depth, provided, however, that on a record lot corresponding to a plat recorded prior to 1979, the following setback standards apply:

a. **Reference Lots**. A sample of reference lots in the vicinity of the proposed activity are used as the basis for front yard setbacks. Reference lots shall be selected as follows:

1) Reference lots are the three (3) closest adjacent lots or parcels on either side of the proposed activity, for a total of six (6) reference lots.

2) Reference lots are on the same side of the same street.

3) Reference lots contain residential structures, irrespective of the orientation of the structure. Vacant lots or lots with non-residential structures are skipped over for the next closest lot or parcel.

4) Reference lots may be selected across local streets, but may not be selected across collector or arterial streets.

5) Reference lots must be in the same zoning district as the proposed activity.

6) If three (3) lots or parcels that comply with the rules of this section are not available on any side, a corresponding number of lots or parcels are selected on the opposite side of the proposed activity, so that a total number of six (6) reference lots are selected.

7) The zoning administrator may adjust the number of reference lots, if necessary to determine a sample representative of the context.

b. Contextual Setback. The required front yard for principal or accessory structures shall be the median of all existing front yards measured from reference lots, plus or minus three (3) feet, but no less than the shortest front yard setback or more than the longest front yard setback measured from all reference lots.

c. Garage Exception. Notwithstanding the requirements of this section, no front face of a garage or vehicle storage unit shall be closer than twenty (20) feet from a right-of-way line to allow an additional parking spot in front of the garage without encroaching into the right-of-way.

* * * * *

Section 2. Amendment. Section 14-04-05 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the RMH Residential Zoning District is hereby amended and re-enacted to read as follows:

14-04-05. RMH Residential District.

* * * * *

3. Development Standards

* * * * *

f. Setbacks. Lot development shall observe the following setbacks:

1. **Front Yard.** No manufactured home or any other legal attachments to said dwelling or any accessory structures shall be located less than twenty (20) feet from the front lot line, measured back from the sidewalk or walkway, provided, however, that on a record lot corresponding to a plat recorded prior to 1979, the following setback standards apply:

a. Reference Lots. A sample of reference lots in the vicinity of the proposed activity are used as the basis for front yard setbacks. Reference lots shall be selected as follows:

1) Reference lots are the three (3) closest adjacent manufactured homes on either side of the proposed activity, for a total of six (6) reference lots.

2) Reference lots are on the same side of the same street.

3) Vacant lots or lots with non-residential structures are skipped over for the next closest lot or parcel.

4) Reference lots may be selected across local streets, but may not be selected across collector or arterial streets.

5) Reference lots must be in the same zoning district as the proposed activity.

6) If three (3) lots or parcels that comply with the rules of this section are not available on any side, a corresponding number of lots or parcels are selected on the opposite side of the proposed activity, so that a total number of six (6) reference lots are selected.

7) The zoning administrator may adjust the number of reference lots, if necessary to determine a sample representative of the context.

b. Contextual Setback. The required front yard for principal or accessory structures shall be the median of all existing front yards measured from reference lots, plus or minus three (3) feet, but no less than the shortest front yard setback or more than the longest front yard setback measured from all reference lots.

c. Garage Exception. Notwithstanding the requirements of this section, no front face of a garage or vehicle storage unit shall be closer than twenty (20) feet from a right-of-way line to allow an additional parking spot in front of the garage without encroaching into the right-of-way.

2. Side Yard and Spacing. No manufactured home or any other legal attachments to said dwelling or accessory structure shall be located less than ~~or~~ six (6) feet from the side lot line measured back from the walkway or sidewalk. ~~No building on a corner lot shall have a side yard on the side street less than twenty (20) feet in width measured back from the walkway or sidewalk. Manufactured homes on corner lots shall follow front yard setbacks from all streets.~~ Side yard measurements are to be taken at right angles to the building at the closest points to a property line. Detached accessory buildings shall be located not less than five (5) feet from the side or rear lot lines. The ends of the manufactured homes shall be at least twelve (12) feet apart. ~~No portion of a manufactured home, or attachment thereto, or any~~

~~other structure in nonconforming manufactured home parks shall be located less than fifteen (15) feet away from any property line adjacent to a public right-of-way.~~

Section 3. Amendment. Section 14-04-06 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the R10 Residential Zoning District is hereby amended and re-enacted to read as follows:

14-04-06. R10 Residential District. In any R10 residential district the following regulations shall apply:

2. Uses permitted. The following uses are permitted:

* * * * *

e. Row house. Attached single-family dwelling in groups of two (2).

* * * * *

~~Depth of front yard in feet--not less than 25 feet;~~

* * * * *

7. **Front yard.** Each lot or parcel shall have a front yard for principal or accessory structures not less than twenty-five (25) feet in depth, provided, however, that on a record lot corresponding to a plat recorded prior to 1979, the following setback standards apply:

a. **Reference Lots.** A sample of reference lots in the vicinity of the proposed activity are used as the basis for front yard setbacks. Reference lots shall be selected as follows:

1) Reference lots are the three (3) closest adjacent lots or parcels on either side of the proposed activity, for a total of six (6) reference lots.

2) Reference lots are on the same side of the same street.

3) Reference lots contain residential structures, irrespective of the orientation of the

structure. Vacant lots or lots with non-residential structures are skipped over for the next closest lot or parcel.

4) Reference lots may be selected across local streets, but may not be selected across collector or arterial streets.

5) Reference lots must be in the same zoning district as the proposed activity.

6) If three (3) lots or parcels that comply with the rules of this section are not available on any side, a corresponding number of lots or parcels are selected on the opposite side of the proposed activity, so that a total number of six (6) reference lots are selected.

7) The zoning administrator may adjust the number of reference lots, if necessary to determine a sample representative of the context.

b. Contextual Setback. The required front yard for principal or accessory structures shall be the median of all existing front yards measured from reference lots, plus or minus three (3) feet, but no less than the shortest front yard setback or more than the longest front yard setback measured from all reference lots.

c. Garage Exception. Notwithstanding the requirements of this section, no front face of a garage or vehicle storage unit shall be closer than twenty (20) feet from a right-of-way line to allow an additional parking spot in front of the garage without encroaching into the right-of-way.

* * * * *

Section 4. Amendment. Section 14-04-07 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the RM Residential Zoning District is hereby amended and re-enacted to read as follows:

14-04-07. RM Residential District. In any RM residential district the following regulations shall apply:

* * * * *

2. Uses permitted. The following uses are permitted:

* * * * *

e. Row house. Attached single-family dwelling in groups of not more than eight (8) or less than three (3) dwelling units in one building, or in groups of not more than eight (8) or less than two (2) dwelling units when constructed as part of an overall row house development with at least three (3) buildings.

* * * * *

	Interior	End	Corners
Lot area in square feet	2,300	3,220	3,795
Lot width of front building line in feet	20	28	33
Depth of lot in front	115	115	115
Depth of front yard in feet	25	25	25
Width of side yard in feet		10	25
Depth of rear yard in feet	20	20	20

* * * * *

7. **Front yard.** Each lot or parcel shall have a front yard for principal or accessory structures not less than twenty-five (25) feet in depth, provided, however, that on a record lot corresponding to a plat recorded prior to 1979, the following setback standards apply:

a. **Reference Lots.** A sample of reference lots in the vicinity of the proposed activity are used as the basis for front yard setbacks. Reference lots shall be selected as follows:

1) Reference lots are the three (3) closest adjacent lots or parcels on either side of the proposed activity, for a total of six (6) reference lots.

2) Reference lots are on the same side of the same street.

3) Reference lots contain residential structures, irrespective of the orientation of the structure. Vacant lots or lots with non-residential structures are skipped over for the next closest lot or parcel.

4) Reference lots may be selected across local streets, but may not be selected across collector or arterial streets.

5) Reference lots must be in the same zoning district as the proposed activity.

6) If three (3) lots or parcels that comply with the rules of this section are not available on any side, a corresponding number of lots or parcels are selected on the opposite side of the proposed activity, so that a total number of six (6) reference lots are selected.

7) The zoning administrator may adjust the number of reference lots, if necessary to determine a sample representative of the context.

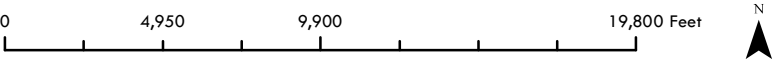
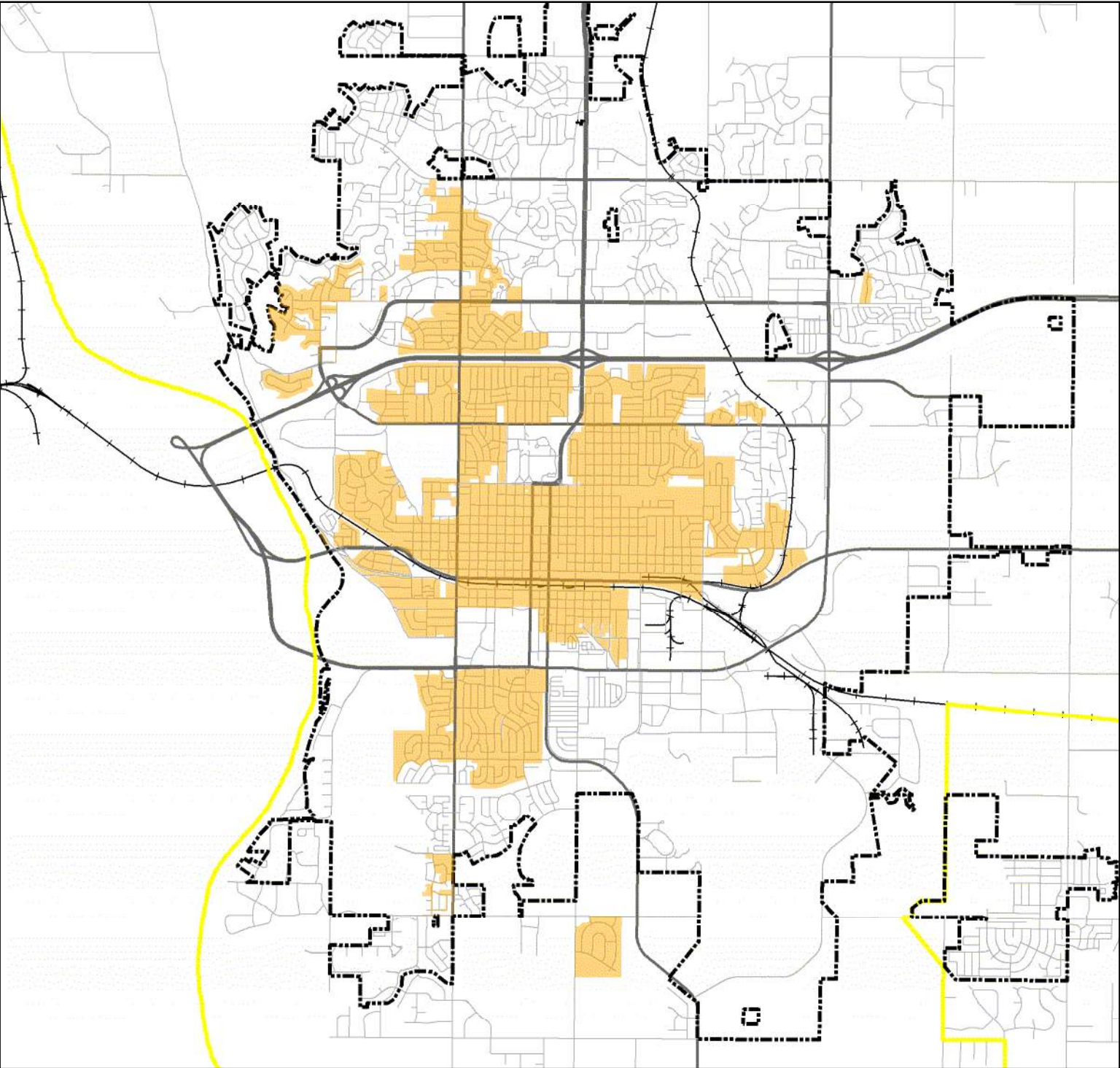
b. Contextual Setback. The required front yard for principal or accessory structures shall be the median of all existing front yards measured from reference lots, plus or minus three (3) feet, but no less than the shortest front yard setback or more than the longest front yard setback measured from all reference lots.

c. Garage Exception. Notwithstanding the requirements of this section, no front face of a garage or vehicle storage unit shall be closer than twenty (20) feet from a right-of-way line to allow an additional parking spot in front of the garage without encroaching into the right-of-way.

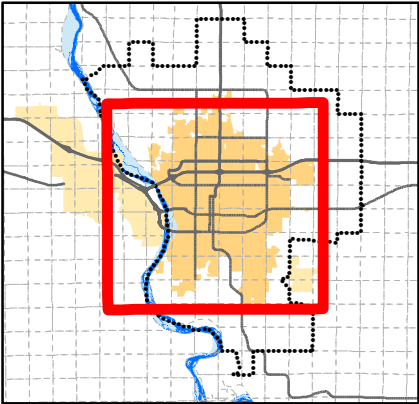
Section 5. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 6. Effective Date. This ordinance shall take effect following final passage, adoption and publication.

DRAFT



Platted 1978 or earlier and includes R5, RMH, R10, or RM zoning districts



Contextual Residential Setback Illustrations

Example

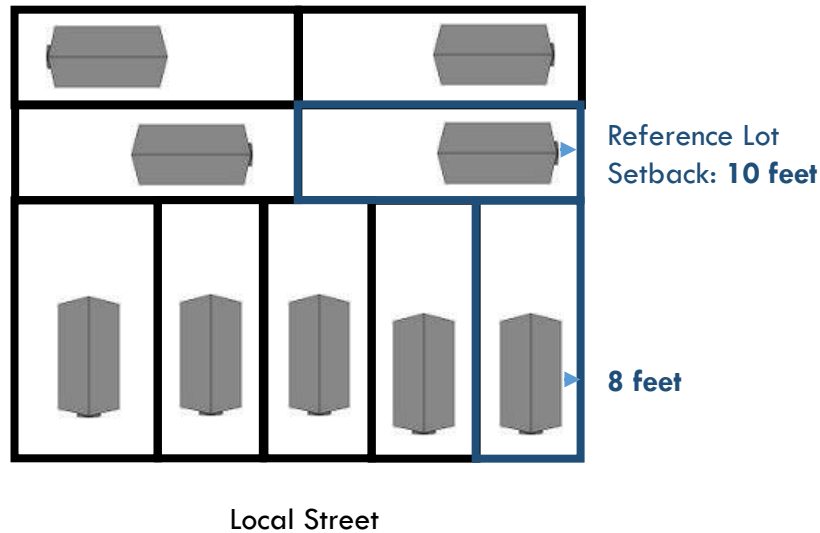
1

An Interior Lot near a Local Street

Rules for Selecting Reference Lots

- 1) Three closest lots on either side of subject lot
- 2) On the same side of the same street.
- 3) Must contain a residential structure
- 4) Local streets can be crossed, but not collector or arterial streets
- 5) In the same zoning district

Required setback is the median of reference lots +/- 3 feet, but not closer than the smallest setback or further than the longest setback.



Results

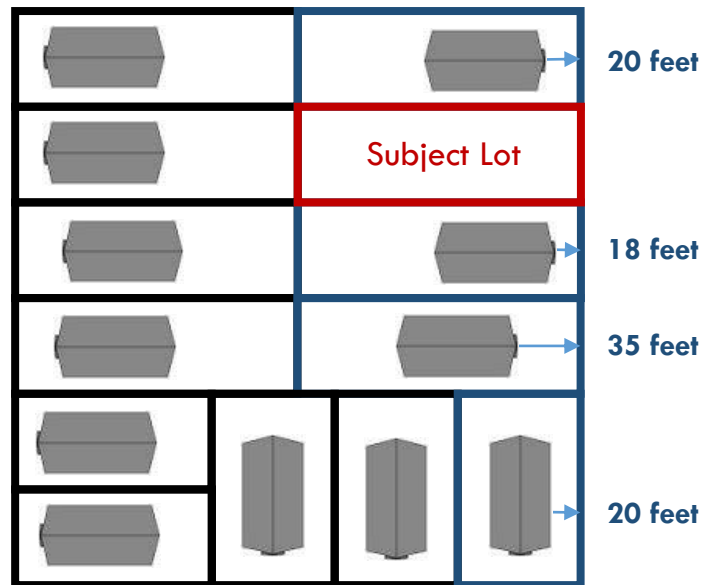
Median = 19'

Minimum = 8'

Maximum = 35'

Required Setback

16' – 22'



Contextual Residential Setback Illustrations

Example

2

An Interior Lot Near a Major Street

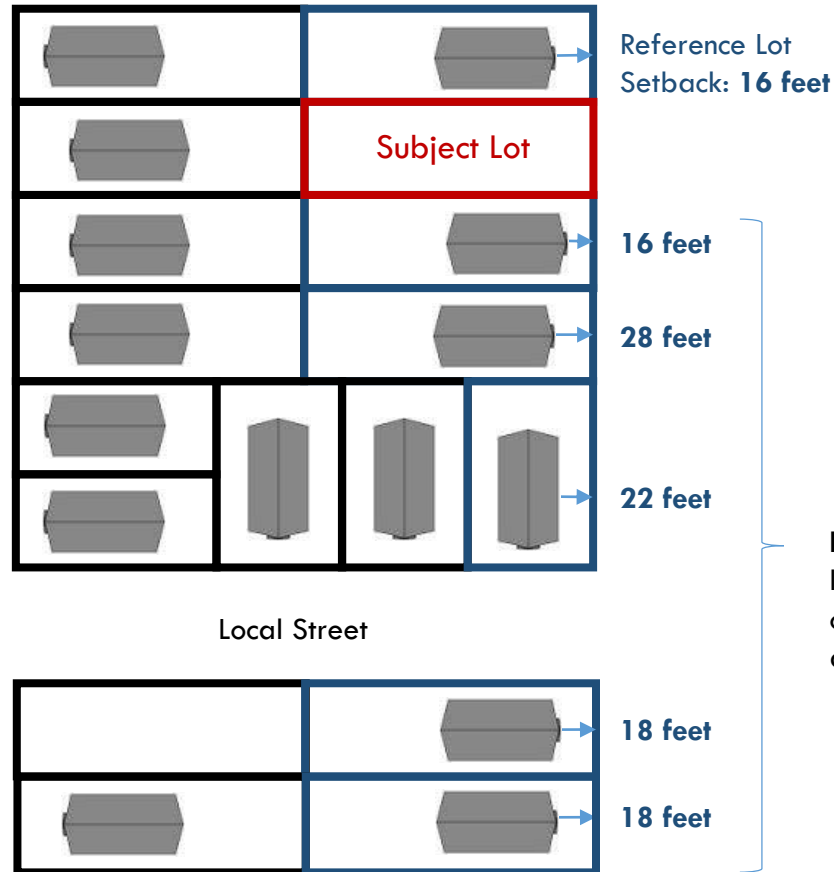
Rules for Selecting Reference Lots

- 1) Three closest lots on either side of subject lot
- 2) On the same side of the same street.
- 3) Must contain a residential structure
- 4) Local streets can be crossed, but not collector or arterial streets
- 5) In the same zoning district

Required setback is the median of reference lots +/- 3 feet, but not closer than the smallest setback or further than the longest setback.



Arterial or Collector Street (reference lots do not cross)



Results

Median = 18'
Minimum = 16'
Maximum = 28'

Required Setback
16' – 21'

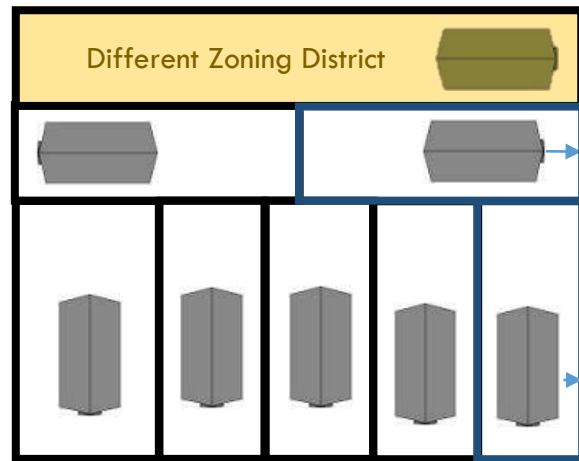
Note: If three reference lots cannot be selected on one side, they are added to the other side.

Contextual Residential Setback Illustrations

Example

3

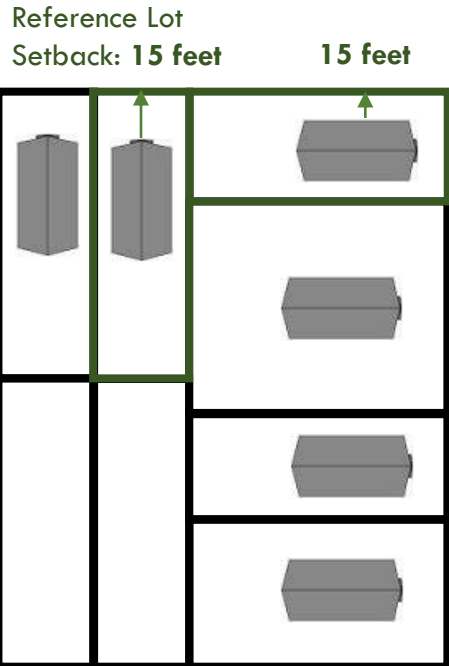
A Corner Lot near a Different Zoning District.



Note: Reference lots must be in the same zoning district

Reference Lot
Setback: **20 feet**

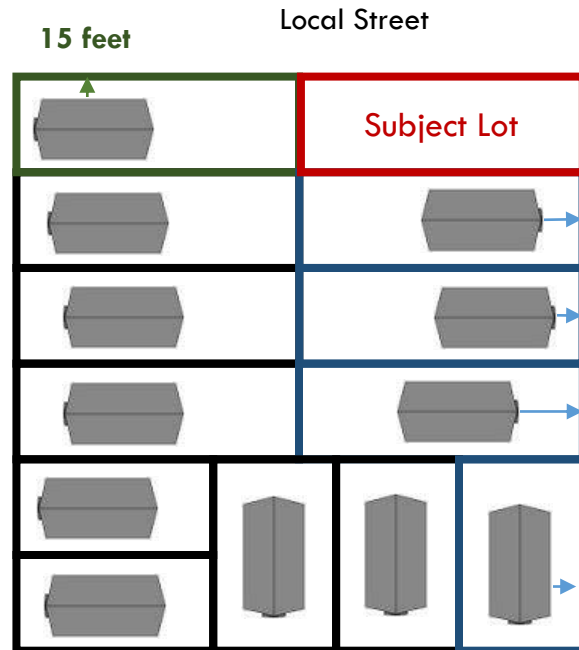
8 feet



Reference Lot
Setback: **15 feet**

15 feet

Local
Street



15 feet

Local Street

Subject Lot

Local
Street

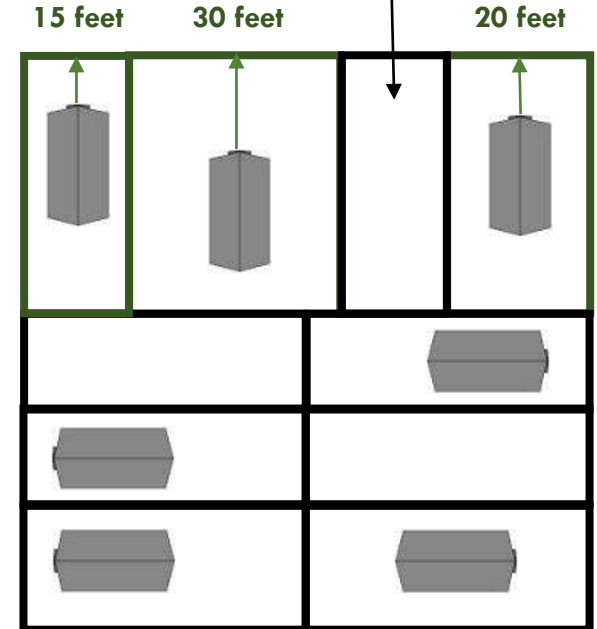
20 feet

18 feet

35 feet

12 feet

Note:
Vacant lot
is skipped



15 feet

30 feet

20 feet

East-West Street Median = 15' Min = 15' Max = 30'
Required Setback = 15' – 18'

North-South Street Median = 19' Min = 8' Max = 35'
Required Setback = 16' – 22'



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 10
September 27, 2017

Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2017-008

Project Summary

Title:	Adjustments to Size Requirements for Off-Premise Advertising Signs
Status:	Planning & Zoning Commission – Public Hearing
Project Contact:	Daniel Nairn, AICP, Planner
Sections Amended:	Section 14-03-08 (Special Uses)
Request:	Increase the allowable width and reduce the required maximum and minimum sizes for off-premise advertising signs.

Staff Analysis

The Planning and Zoning Commission reviewed the proposed zoning ordinance text amendment on August 23, 2017 and called for a public hearing on the item.

The Community Development Department is initiating a zoning ordinance text amendment of three adjustments to the size requirements for new off-premise advertising signs to better align with new industry sizing standards for digital billboards.

The following chart compares the current and proposed size requirements:

	Existing (Square Feet)	Proposed (Square Feet)
Maximum Size	400	300
Minimum Size	280	200
Maximum Width	25	30
Maximum Height	16	16

These size requirements apply to all areas except along Interstate 94 and portions of Bismarck Expressway where larger signs are permitted.

The following industry standard digital billboard sizes have been provided by the two companies that sell in

our region. The sizing is annotated with the actual square footage of the sign area for zoning purposes:

Market Size (Feet)	Sign Area (Square Feet)	Permitted (existing)	Permitted (proposed)
12x24	288	Yes	Yes
14x48	672		
15x48	720		
10.5x35	367.5		
10.5x36	378		
10x30	300		Yes
14x28	392		
10x20	200		Yes
11x22	242		Yes
11x23	253		Yes
17x59	1003		
20x60	1200		

The reason for the proposed amendment is that the current size requirements allow a fairly small window of possible sizes, and most industry standard sizes for digital signs are either too small or too wide to be

permitted. Because digital advertisements are generally created in a certain aspect ratio, it can be difficult to adapt an advertisement to a sign size it was not intended for.

The proposed changes would allow a greater degree of flexibility in terms of the width of signs without compromising the intent of the ordinance. The reduction of the minimum size from 280 to 200 will allow three smaller industry-standard sizes that may be more appropriate for certain locations.

The total allowable area is proposed to be reduced from 400 square feet per sign to 300 square feet per sign. The size requirements are comparable to other peer communities. For example, the City of Fargo also imposes a 300 square foot maximum in similar situations.

Required Findings of Fact (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance

was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;

3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning ordinance text amendment for Section 14-03-08 (Special uses) of the City Code of Ordinances, relating to the size requirements for off-premise advertising signs, as outlined in the attached draft ordinance.

Attachments

1. Draft zoning ordinance amendment

Staff report prepared by: Daniel Nairn, AICP, Planner
701-355-1854 | dnairn@bismarcknd.gov

CITY OF BISMARCK

Ordinance No. XXXX

First Reading _____

Second Reading _____

Final Passage and Adoption _____

Publication Date _____

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-08 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO SPECIAL USES AND SIZE REQUIREMENTS FOR OFF-PREMISE ADVERTISING SIGNS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-08 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Special Uses is hereby amended and re-enacted to read as follows:

14-03-08. Special Uses. In order to carry out the purposes of this title, the board of city commissioners finds it necessary to require that certain uses, because of unusual size, safety hazards, infrequent occurrence, effect on surrounding area, or other reasons, be reviewed by the city planning and zoning commission and by the Zoning Administrator (where allowed) prior to the granting of a building permit or certificate of occupancy and that the city planning and zoning commission and the Zoning Administrator (where allowed) are hereby given limited discretionary powers relating to the granting of such permit or certificate.

* * * * *

3. Permanent uses (administrative approval). The Zoning Administrator may issue special use permits for the following uses without a public hearing or approval of the city planning and zoning commission:

* * * * *

b. Off-Premise Advertising Sign: Off-Premise Advertising Signs may be permitted in any CG, MA, or MB district as an administrative special use provided:

* * * * *

2. A site plan is submitted showing the overall dimensions of the sign, the location of the sign and any appurtenant features. The site plan shall be accompanied by a narrative description of operational elements of the sign including illumination and any electronic functions. The site plan must verify that all the following criteria in this section have been met:

* * * * *

e. Each sign face may not exceed three hundred (300) ~~four hundred (400)~~ square feet in area, sixteen (16) feet in height or thirty (30) ~~twenty (25)~~ feet in width, with the exception of off-premise advertising signs oriented toward Interstate 94 (not business loop) or Bismarck Expressway east of the intersection with Airport Road, which may not exceed six hundred and seventy two (672) square feet in area, sixteen (16) feet in height or fifty (50) feet in width. In addition, no off-premise advertising sign face may be less than two hundred (200) ~~two hundred and eighty (280)~~ square feet in area.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. This ordinance shall take effect following final passage, adoption and publication.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 11
September 27, 2017

Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2017-004

Project Summary

Title:	Regulations Governing the Subdivision of Land – Definitions, Procedures and Improvements
Status:	Planning & Zoning Commission – Public Hearing
Project Contact:	Kim L. Lee, AICP, Planning Manager
Sections Amended:	Sections 14-09-03 (Definitions), 14-09-04 (Procedure) and 14-09-06 (Improvements)
Request:	Amend the Zoning Ordinance to modify definitions and clarify both procedure and improvements sections of the subdivision regulations.

Staff Analysis

The Planning and Zoning Commission scheduled a public hearing for the proposed zoning ordinance text amendment at their meeting of August 23, 2017.

With the impending implementation of the updated Storm Water Design Standards Manual and the approval of the related amendments to Title 14.1 (Stormwater Management), changes will also be needed in the Procedure section of the Chapter 14-09 (Regulations Governing the Subdivision of Land) so that all provisions continue to work together.

Since this chapter needed to be amended at this time, staff took the opportunity to make other modifications that are needed. The changes to the definitions section takes regulatory language out of the definitions; the changes to the procedure section move subsections into a more logical order, makes the language of subsections parallel in construction, and updates the requirements to bring them in line with current practice; and the changes to the improvements section updates the section to reflect current practices.

Minor changes have been made to this zoning ordinance text amendment since the August 23rd meeting. These recent changes are highlighted in green in the draft zoning ordinance text amendment.

Required Findings of Fact (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning ordinance text amendment for Sections 14-09-03 (Definitions), 14-09-04 (Procedure) and 14-09-06 (Improvements) of the City Code of Ordinances, as outlined in the attached draft ordinance.

Attachments

1. Draft zoning ordinance text amendment
-

Staff report prepared by: Kim L. Lee, AICP, Planning Manager
701-355-1846 | klee@bismarcknd.gov

CITY OF BISMARCK

Ordinance No. XXXX

First Reading _____

Second Reading _____

Final Passage and Adoption _____

Publication Date _____

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-09-03, 14-09-04 AND 14-09-06 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO REGULATIONS GOVERNING THE SUBDIVISION OF LAND, DEFINITIONS, PROCEDURE AND IMPROVMENTS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-09-03 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Regulations Governing the Subdivision of Land/Definitions is hereby amended and re-enacted to read as follows:

14-09-03. Definitions. The following definitions represent the meanings of terms as they are used in these regulations:

* * * * *

(Rearrange definitions to be in alphabetical order)

Subdivision Plat, Minor: A subdivision, platted pursuant to Chapter 40-50 NDCC, that ~~meets all of the following criteria:~~ is part of a previously platted subdivision and does not include the dedication of new public rights-of-way.

a. ~~Does not require the dedication of public rights-of-way or the construction of new streets;~~

b. ~~Does not create any public improvements other than sidewalks;~~

e. Does not land lock or otherwise impair convenient ingress and egress to or from the rear or side of the subject tract or any adjacent property;

d. Does not violate any local, state or federally adopted law, ordinance, regulation, plan or policy;

e. Is part of a previously platted subdivision.

Subdivision Plat, Major: Any subdivision, platted pursuant to Chapter 40-50 NDCC, that does not meet the definition of a minor subdivision.

* * * * *

Lot Line Adjustment: An administrative adjustment of an existing previously platted lot line between two (2) adjoining lots or parcels by relocation of a common boundary. that meets the following criteria:

a. Does not involve lots within more than one zoning classification;

b. Is not one lot line adjustment in a series of lot line adjustments proposed for contiguous lots as a way to circumvent the minor subdivision plat process.

c. Both of the resulting parcels conform to the minimum lot area, width and depth for the zoning district in which the property is located, or will when combined with an adjacent parcel as part of the same lot modification action;

d. The resulting parcels can be legally described with no more than two (2) directional descriptors (e.g. the north 100 feet of the west 200 feet of Lot 1, Block 1, ABC Addition). For lot line adjustments between irregularly shaped parcels or to transfer an irregularly shaped portion of a lot to an adjacent land owner, the Director of Community Development may waive this requirement, provided the resulting parcels can be legally described as the original lot number combined with a letter (e.g. Lot 1 would become Lots 1A, 1B and 1C);

Lot Combination: A combination of two (2) or more previously platted lots or parcels into a single lot whose boundaries coincide with the lot lines shown on the

recorded plat of the subdivision. ~~that meets the following criteria:~~

~~a. Does not involve the vacation of existing easements;~~

~~b. does not involve lots within more than one zoning classification.~~

Lot Split: The division of a previously platted lot or parcel into not more than three (3) lots or parcels. ~~that meets the following criteria:~~

~~a. The lot split does not involve the creation of new utility easements;~~

~~b. The lot split does not require the dedication of public rights-of-way for the purpose of gaining access to the property;~~

~~c. All parcels conform to the minimum lot area, width and depth for the zoning district in which the property is located;~~

~~d. The resulting parcels can be legally described with no more than two (2) directional descriptors (e.g. the north 100 feet of the west 200 feet of Lot 1, Block 1, ABC Addition). For an irregularly-shaped lot, the Director of Community Development may waive this requirement, provided the resulting parcels can be legally described as the original lot number combined with a letter (e.g. Lot 1 would become Lots 1A, 1B and 1C), and provided that any line dividing the parcel along a common wall is a straight line from the front property line to the back property line among the common wall;~~

~~(e) The property has not previously been divided through the lot split provisions of this ordinance.~~

Lot Modification: A lot line adjustment, lot split or lot combination as defined herein.

(Ord. 4631, 08-30-94; Ord. 4735, 11-14-95; Ord. 5146, 12-18-01; Ord. 5279, 09-23-03; Ord. 5452, 08-23-05; Ord. 5539, 08-22-06; Ord. 5728, 05-26-09; Ord. 5819, 04-26-11)

Section 2. Amendment. Section 14-09-04 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Regulations

Governing the Subdivision of Land/Procedure is hereby amended and re-enacted to read as follows:

14-09-04. Procedure.

1. Preliminary steps: Pre-submittal Considerations for Major Subdivision Preliminary Plats and Minor Subdivision Final Plats.

a. Prior to preparing either a preliminary major subdivision plat or a minor subdivision plat for submittal, the applicant or applicant's consulting engineer shall complete a pre-submittal scoping sheet for a post-construction stormwater management permit and submit it to the City Engineer in accordance with the provisions of Chapter 14.1-04 of the Code of Ordinances (Stormwater Management/Post-Construction Stormwater Management Permit). ~~If a waiver from the post-construction stormwater management permit requirement is being requested, such request must be approved by the City Engineer prior to requesting a pre-application meeting.~~

ab. Prior to preparing a subdivision plat for submittal, the applicant shall meet ~~schedule a pre-application meeting~~ with City ~~and Park District~~ staff to discuss the proposed plat, consistency of the plat with City ~~and Park District~~ policies and plans, the overall concept plan for the area, ~~the~~ extension of municipal utilities needed to service the plat ~~(both route and funding expectations)~~, compliance with the fringe area road master plan, ~~the development of park and open spaces within the plat,~~ any undevelopable land within or adjacent to the proposed plat, and any storm water management issues.

b. ~~The subdivider should also consult with parties potentially interested with him or with the ultimate users of the development, such as mortgage, insurance and lending institutions, with a view to reaching at this stage a clear understanding of the part of the market demand that should be served, suitability of the location of the proposed subdivision, the most advantageous general plan or arrangement of streets, lots, and other features of the proposed development.~~

c. Prior to preparing a preliminary major subdivision plat for submittal, if the proposed plat is to include urban residential zoning, the applicant shall schedule a pre-application meeting with Bismarck Parks and Recreation District staff to discuss the proposed plat, consistency of the plat with Parks and Recreation District policies and plans, and the development of park and open spaces within the plat.

ed. It ~~will be~~ ^{is} the duty of the ~~planning and Zoning~~ ^{Planning and Zoning} ~~Commission~~ ^{Commission} to discourage the subdividing of lands that are far in advance of the needs of the community; that by their location cannot be efficiently served by public utilities, fire protection, police protection or other municipal services; that are located in areas subject to flooding; that are located in areas that would adversely impact water quality and environmentally sensitive lands; that are topographically unsuitable for development; or that for any other reason are being unwisely or prematurely subdivided. It shall also be the duty of the planning commission to encourage the replatting of lands deemed to be unsatisfactorily subdivided or which represent an obstacle to the orderly and efficient growth of the city. It shall also be the duty of the planning commission to encourage the coordinated platting of adjacent parcels of land.

(The following subsection has been moved from #4 to #2)

~~42.~~ ~~Tentative approval~~ Major Subdivision Plat -
~~Preliminary Plat (Tentative Approval):~~

a. ~~The subdivider shall apply in writing An application for tentative approval of a major subdivision plat (preliminary plat) shall be submitted to the Director of Community Development for tentative approval of a major subdivision plat by the specified application deadline and on the proper application form. All current owners of property within the plat shall sign or ratify the application form.~~ *(combine with next paragraph)*

b. ~~The number of prints of the preliminary plat as indicated in the current application form shall be filed with the Director of Community Development at~~

~~the time application for tentative approval is made. The plat shall comply with the provisions of Section 14-09-07(1) of these regulations and The application shall be accompanied by:~~

i. The applicable fee;

ii. The number of paper prints as indicated in the current application form, prepared in compliance with the provisions of Section 14-09-07(1) of these regulations;

~~iii~~iii. An 8½ x 11 inch reduction of the plat;

~~iiiiv~~iv. A digital copy pdf of the full-size plat; and

v. A dwg file of the plat in accordance with the City's GIS submittal requirements; and

~~ivvi~~vi. A concept development plan showing the proposed location of roadways and a generalized lot layout for all adjacent land within ½ mile of the proposed plat that is owned by the applicant.

~~v.~~ A preliminary storm water management plan that includes:

~~a.~~ The proposed preliminary grading plan shown at contours as required to clearly indicate the relationship of the proposed changes to existing topography and remaining features;

~~b.~~ A preliminary drainage plan of the developed site delineating the direction and at what rate storm water runoff will be conveyed from the site and setting forth the areas of the site where storm water will be collected; and

~~c.~~ Any other information pertinent to the particular project which, in the opinion of the applicant, is necessary

~~for the preliminary review of the project.~~

~~vii.~~ A statement of intent to provide neighborhood park and open space, as shown on the plat, unless waived in writing by the Director of Parks and Recreation or unless the proposed plat does not include any urban residential zoning.

~~viii.~~ A copy of the completed scoping sheet for a post-construction stormwater management permit submitted to the City Engineer in accordance with the provisions of Chapter 14.1-04 of the Code of Ordinances (Stormwater Management/ Post-Construction Stormwater Management Permit) and approved by the City Engineer.

~~eb.~~ For a proposed subdivision plat ~~within or adjacent to the corporate limits that will be served by municipal utilities,~~ a preliminary utility servicing plan is also required. This preliminary utility servicing plan shall include:

- i. An accurate location map;
- ii. The proposed layout of lots and streets;
- iii. Topographic contours with a minimum contour interval of two (2) feet;
- iv. The location of any existing municipal utilities within or adjacent to the plat; and
- v. The proposed location and size of water and sanitary sewer mains within the subdivision, how these mains are proposed to connect to the existing utility systems, the incorporation of any City master-planned utilities, and any easements on adjacent property required to accommodate connections.

~~ec.~~ For proposed subdivision plats outside of the corporate limits, but within the Urban Service

Area Boundary, the following profiles for roads/streets are also required:

- i. Three profiles of existing ground elevation; one at centerline and one on each side of the right-of-way, fifty feet beyond the right-of-way lines, and
- ii. Two centerline profiles of proposed design elevations; one for a rural road section and another for a future urban street section design.

ed. For proposed subdivision plats within two-miles of the corporate limits, the source of water (either city or rural) shall be identified. If the subdivision is to be served by South Central Regional Water District a formal request from South Central Regional Water District to service the subdivision shall be submitted in conjunction with the request for tentative approval. Said request shall include a statement indicating that all rural water service lines installed by or on behalf of South Central Regional Water District will be installed to City specifications, a rural water agreement will be required as part of the platting process. Said rural water agreement shall include a statement indicating that all rural water service line installed by or on behalf of South Central Regional Water District will be installed to City specifications. The City Engineer, in consultation with the Director of Public Works - Utility Operations, shall will review the request and make a determination as to whether or not South Central Regional Water District service will be allowed and the appropriate term for the rural water agreement.

fe. All areas proposed for development shall be platted to the edge of the property with all undevelopable land included within the plat (subject to discussion and agreement by between the landowner and the City).

- i. Land determined by the owner and City to be undevelopable and/or needed for stormwater purposes shall be:

a. Included in adjoining platted lot(s) as either a stormwater and drainage easement or a slope protection easement that is privately owned, with only major maintenance by City and maintained. The amount of property taxes and special assessments for these areas will be determined by the City based on the level of benefit and the value of the land; or

b. Platted as a separate lot(s) that is owned and maintained by the City, as a regional stormwater conveyance or detention facility; or

~~c. Platted as a separate lot(s) that is owned and maintained by the Bismarck Parks and Recreation District (subject to their agreement) as a natural area; or~~

~~dc.~~ Platted as a separate lot(s) that is owned and maintained by the Bismarck Parks and Recreation District, (subject to their agreement) and including either with or without a City-maintained stormwater easement; or

~~ed.~~ Any combination of the above options Other options as agreed to by the landowner and the City.

~~Undevelopable land will shall be maintained as a natural area unless a stormwater and drainage easement is present and the easement requires major maintenance. Major maintenance shall include maintenance of existing structures, mowing below floodplain elevation, cleaning of sediment and maintenance of access.~~

~~gf.~~ After receipt of a complete application for tentative approval of a major subdivision preliminary plat, the plat shall be scheduled for review. Upon completion of the review by staff and compliance with all requirements, the Director of Community Development shall schedule the

plat for consideration by the Planning and Zoning Commission. The Planning and Zoning Commission shall approve, approve conditionally, table or disapprove such preliminary major subdivision preliminary plat. If approved with modification or waiver of certain requirements by the Planning and Zoning Commission, the reasons therefore shall be specified. If approved conditionally, the conditions and reasons therefore shall be specified. In any conditional approval, the Planning and Zoning Commission may require the subdivider property owner to submit a revised preliminary major subdivision preliminary plat. If disapproved, the reasons for that action shall be stated, and if possible, the Planning and Zoning Commission shall make recommendations on the basis of which the proposed subdivision may be approved.

hg. The action of the Planning and Zoning Commission shall be entered on the official records of the Planning and Zoning Commission, including any conditions imposed and the reasons for any disapproval of a preliminary major subdivision preliminary plat.

ih. Tentative approval of a preliminary major subdivision preliminary plat by the Planning and Zoning Commission is not an acceptance of the major subdivision plat for record, but is rather an expression of approval of a general plat for the final approval and recording upon fulfillment of all requirements of these regulations.

ji. Tentative approval shall be effective for a maximum period of twelve (12) months, unless upon application by the subdivider property owner, the Director of Community Development grants an extension. If the final major subdivision final plat has not been submitted for final approval within this time limit, a preliminary major subdivision preliminary plat must again be submitted to the Planning and Zoning Commission for tentative approval.

(The following subsection has been moved from #5 to #3)

~~53. Final approval - Major Subdivision Plate - Final Plat (Final Approval):~~

~~a. The subdivider shall apply in writing. An application for approval of a major subdivision final plat shall be submitted to the Director of Community Development for approval of a major subdivision plat by the specified~~

application deadline and on the proper form. All current owners of property within the plat shall sign or ratify the application form. (combine with next paragraph)

~~b. The number of prints of the final major subdivision plat as indicated in the current application form shall accompany the application for final approval. The final plat shall comply with the provisions of Section 14-09-07(2), of these regulations, and The application shall be accompanied by:~~

i. The applicable fee;

ii. The number of paper prints as indicated in the current application form, prepared in compliance with the provisions of Section 14-09-07(2) of these regulations.

~~iii.~~ Either a copy of a current title insurance policy running to the benefit of the City of Bismarck or a current attorney's opinion of ownership, running to the benefit of the City of Bismarck;

~~iv.~~ An 8½ x 11 inch reduction of the plat;

~~v.~~ A digital copy pdf of the full-size plat; and

vi. A dwg file of the plat in accordance with the City's GIS submittal requirements;

~~ivvii.~~ A storm water management plan in accordance with Title 14.1 of the Zoning Ordinance A copy of the conditional post-construction stormwater management permit issued by the City Engineer; and

~~viii.~~ A Park Development Agreement or Park Concept Development Plan in accordance with the latest adopted City policy, unless waived in writing by the Director of Parks and Recreation or unless the proposed plat does not include any urban residential zoning.

b. For a proposed subdivision plat ~~within or adjacent to the corporate limits that will be served by municipal utilities,~~ a preliminary revised utility servicing plan ~~is also may be~~ required. This preliminary revised utility servicing plan shall include:

- i. An accurate location map;
- ii. The proposed layout of lots and streets;
- iii. Topographic contours with a minimum contour interval of two (2) feet;
- iv. The location of any existing municipal utilities within or adjacent to the plat; and
- v. The proposed location and size of water and sanitary sewer mains within the subdivision, how these mains are proposed to connect to the existing utility systems, the incorporation of any City master-planned utilities, and any easements on adjacent property required to accommodate connections.

~~e. For proposed subdivision plats located within the City of Bismarck's extraterritorial area, an assurance of completion of the required improvements (in a form acceptable to the Planning Commission) shall be required only if such improvements are not constructed and accepted prior to recording of the plat.~~

dc. For ~~plats~~ proposed subdivision plats outside of the corporate limits, but within the Urban Service Area Boundary, the following are also required:

- i. Grading plans for both rural section roadways to be constructed to serve the rural lots and future urban roadway sections to be constructed to serve the ghost platted urban lots; and
- ii. Master plans for the future extension of municipal water and sewer facilities to ghost platted urban lots.

~~iii. Watershed Master Plan (as defined in Section 14.1-01-02).~~

~~ed.~~ After receipt of the complete application for final major subdivision final plat approval, the plat shall be scheduled for review. Upon completion of the review by staff and compliance with all requirements, the Director of Community Development shall give notice of a public hearing before the Planning and Zoning Commission on such proposed subdivision by advertising the time and place of such hearing in a newspaper of general circulation in the City of Bismarck once each week for two (2) consecutive weeks prior to the date of such hearing. Not less than ten (10) days prior to date of the scheduled public hearing, the City shall attempt to notify all known adjacent property owners within three hundred (300) feet of the proposed major subdivision plat. "Notify" shall mean the mailing of a written notice to the address on record with the City Assessor or Burleigh County Auditor. The failure of adjacent property owners to actually receive the notice shall not invalidate the proceedings. The Director of Community Development shall send a notice of the time and place of such public hearing to the subdivider and property owner(s) ~~before the date fixed for the hearing via registered mail not less than ten (10) days prior to the date of the scheduled public hearing. The public hearing may be held at any regular or special meeting of the Planning and Zoning Commission.~~

~~fe.~~ After a public hearing, the Planning and Zoning Commission may act upon the request for final approval of a major subdivision final plat. If the Planning and Zoning Commission approves recommends approval of the subdivision, such approval will be entered upon the tracing plat prepared for recording purposes and will be signed by the secretary (Director of community Development) and the Chair of the Planning and Zoning Commission. If the Planning and Zoning Commission disapproves the subdivision, such action, together with the reasons therefor will be entered in the official records of the Planning and Zoning Commission and the subdivider property owner shall be so notified.

~~gf.~~ Upon final approval of a major subdivision final plat involving the creation of new street(s) ; the widening, decreasing or vacation of existing street(s) or alley(s) ; the creation or modification of easements; or

the creation, enlargement or decrease of other lands devoted to public use, the ~~p~~Planning and Zoning ~~e~~Commission shall at the same time and without further public hearing, approve such change in streets, alleys, ~~easements~~ or public lands as an amendment to the master plan. The ~~p~~Planning and Zoning ~~e~~Commission will transmit notice of such action to the ~~b~~Board of ~~e~~City ~~e~~Commissioners ~~of the City of Bismarck~~ together with appropriate recommendations concerning the acceptance of dedicated streets and alleys, or the vacation thereof, and of the acceptance of ~~easements~~ and other dedicated lands. In the case of streets, alleys and public lands lying outside the City of Bismarck, notice of the action of the ~~p~~Planning and Zoning ~~e~~Commission and appropriate recommendations will be transmitted to the ~~b~~Board of ~~e~~County ~~e~~Commissioners of Burleigh County or other body having jurisdiction in order to procure approval of roadway dedications.

~~h~~g. Final approval of a major subdivision ~~final~~ plat by the ~~p~~Planning and Zoning ~~e~~Commission shall in no way constitute legal acceptance of any dedicated streets, alleys or other public lands.

~~i~~h. A ~~final~~ major subdivision ~~final~~ plat that is ~~approved~~ recommended for approval by the Planning and Zoning Commission will be ~~recommended for approval~~ forwarded to the Board of City Commissioners. Following final approval of the major subdivision ~~final~~ plat and the Park Development Agreement or Park Concept Development Plan (if required) by the Board of City Commissioners, a plat in recordable form and all required ratifications shall be furnished to the Director of Community Development within one hundred eighty (180) days following approval. ~~The director of Community Development may grant extensions of thirty (30) days for good cause shown in writing. If the plat in recordable form and all required ratifications are not furnished to the Director of Community Development within one hundred eighty (180) days following approval, the approval of the plat shall be considered null and void and the applicant will have to reapply for approval.~~

Upon review and obtaining required signatures, and upon submittal of a final dwg file, the Director of Community Development shall file and record the original signed ~~final major subdivision~~ plat with the Burleigh County Recorder. A signed Park Development Agreement (if required) shall be recorded in conjunction with the ~~final major subdivision~~

plat. The recording of Park Concept Development Plans is not required. A rural water agreement (if required) shall also be recorded in conjunction with the plat. All final plats shall be provided digitally formatted to the City of Bismarck's current computer aided drafting and geographic system software and policy, including coordinate system ties as defined within this zoning ordinance.

(The following subsection has been moved from #3 to #4)

34. Minor Subdivision - Final Plat.

a. The purpose of this subsection is to provide for an expedited review and approval process for the resubdivision of previously platted property that meets the criteria for a minor subdivision final plat is completely contained within a previously platted subdivision and does not include the dedication of new public rights-of-way. Subdivision plats that do not meet the criteria shall be considered major subdivision plats.

b. The subdivider shall apply in writing for approval of a minor subdivision plat. An application for approval of a minor subdivision final plat shall be submitted to the Director of Community Development by the specified application deadline and on the proper form. All current owners of property within the plat shall sign or ratify the application form. (combine with next paragraph)

e. The number of prints of the minor subdivision final plat as indicated on the current application form shall accompany the application for approval. The minor subdivision final plat shall comply with the provisions of Section 14-09-07(2) of these regulations and application shall be accompanied by:

- i. The applicable fee;
- ii. The number of paper prints as indicated in the current application form, prepared in compliance with the provisions of Section 14-09-07(2) of these regulations;
- iii. Either a copy of a current title insurance policy running to the benefit of the City or a current attorney's opinion of ownership;

~~iiiiv.~~ An 8½ x 11 inch reduction of the plat;

~~ivv.~~ A digital copy pdf of the full-size plat;
and

vi. A dwg file of the plat in accordance with the City's GIS submittal requirements; and

~~vii.~~ A storm water management plan in accordance with Title 14.1 of the Zoning Ordinance. A copy of the completed scoping sheet for a post-construction stormwater management permit submitted to the City Engineer in accordance with the provisions of Chapter 14.1-04 of the Code of Ordinances (Stormwater Management/ Post-Construction Stormwater Management Permit) and approved by the City Engineer. A copy of the conditional post-construction stormwater management permit issued by the City Engineer will be required prior to final approval of the minor subdivision final plat.

dc. After receipt of the a complete application for minor subdivision final plat approval, the plat shall be scheduled for review. Upon completion of the review by staff and compliance with all requirements, including the issuance of a conditional post-construction stormwater management permit by the City Engineer, the Director of Community Development shall give notice of a public hearing before the Planning and Zoning Commission on such proposed subdivision by advertising the time and place of such hearing in a newspaper of general circulation in the City of Bismarck once each week for two (2) consecutive weeks prior to the date of such hearing. Not less than ten (10) days prior to date of the scheduled public hearing, the City shall attempt to notify all known adjacent property owners within three hundred (300) feet of the proposed minor subdivision final plat. "Notify" shall mean the mailing of a written notice to the address on record with the City Assessor or Burleigh County Auditor. The failure of adjacent property owners to actually receive the notice shall not invalidate the proceedings. The Director of Community Development shall send a notice of the time and place of such public hearing to the subdivider and property

owner(s) ~~before the date fixed for the hearing via registered mail not less than ten (10) days prior to the date of the scheduled public hearing. The public hearing may be held at any regular or special meeting of the Planning and Zoning Commission.~~

ed. After a public hearing, the Planning ~~and Zoning~~ Commission may act upon the request for minor subdivision ~~final~~ plat approval. If the Planning Commission ~~approves recommends approval of~~ the minor subdivision ~~final~~ plat, such approval will be entered upon the ~~tracing plat prepared for recording purposes~~ and will be signed by the secretary of the Planning Commission (Director of Community Development) and the Chair of the Planning and Zoning Commission. If the Planning and Zoning Commission ~~disapproves denies~~ the subdivision, such action, together with the reasons therefore, will be entered in the official records of the Planning and Zoning Commission and the ~~subdivider property owner~~ shall be so notified.

f. A minor subdivision ~~final~~ plat that is ~~approved recommended for approval~~ by the Planning and Zoning Commission will be ~~recommended for approval forwarded~~ to the Board of City Commissioners. Following final approval by the Board of City Commissioners, a plat in recordable form ~~and all required ratifications~~ shall be furnished to the Director of ~~e~~Community Development within one hundred eighty (180) days following approval. ~~The Director of Community Development may grant extensions of thirty (30) days for good cause shown in writing.~~ Upon review and obtaining required signatures, ~~and upon submittal of a final dwg file,~~ the Director of Community Development shall file and record the original signed plat with the Burleigh County Recorder. ~~All final plats shall be provided digitally formatted to the City of Bismarck's current computer-aided drafting and geographic system software and policy, including coordinate system ties as defined within this zoning ordinance~~ If the plat in recordable form and all required ratifications are not furnished to the Director of Community Development within one hundred eighty (180) days following approval, the approval of the plat shall be considered null and void and the applicant will have to reapply for approval.

5. Rural Residential Lot Splits.

a. The purpose of this subsection is to provide for approval of lot splits within the rural residential zoning districts (RR and RR5) that meet specific criteria and for the waiver of standard platting requirements specified elsewhere in this Chapter. This process is intended to facilitate the further division of previously platted rural residential lots into two or three parcels for development.

b. Any person having a legal interest in the property may file an application for a rural residential lot split.

c. An application for approval of a rural residential lot split shall be submitted to the Director of Community Development on the proper form. The application shall be accompanied by:

i. The applicable fee;

ii. A sketch of the proposed modification with all existing buildings or structures on the property and setbacks from existing and proposed parcel boundaries;

iii. The legal description(s) of the existing lot(s) and/or parcel(s); and

iv. The legal description(s) of the resulting lots(s) and/or parcel(s).

d. After receipt of all items required for the application for approval of a rural residential lot split, the Director of Community Development shall give notice of a public hearing on the proposed rural residential lot split by advertising the time and place of such hearing in a newspaper of general circulation in the City of Bismarck once each week for two (2) consecutive weeks prior to the date of such hearing. Not less than ten (10) days prior to the date of such hearing, all known adjacent property owners within 1,320 feet of the proposed lot split shall be notified of the public hearing by letter. "Notify" shall mean the mailing of a written notice to the address on record with the City Assessor or Burleigh County Auditor. The failure of adjacent property owners to actually receive the notice shall not invalidate the proceedings. The Director of Community Development shall send a notice of

the time and place of such public hearing to the property owner(s) before the date fixed for the hearing.

e. After a public hearing, the Planning and Zoning Commission may act upon the request for a rural residential lot split. The action of the Planning and Zoning Commission, together with the reasons therefor, will be entered in the official records of the Planning and Zoning Commission and the applicant shall be so notified. If the Planning and Zoning Commission approves the lot split, the applicant shall record a document that legally creates the two new parcels with the Burleigh County Recorder. Failure to record such a document within sixty (60) days shall nullify the approval of the lot split.

(The following subsection has been moved from #2 to #6)

26. Lot Modifications - Lot Line Adjustments, ~~Lot Splits~~ and Lot Combinations, ~~and Lot Splits~~.

a. The purpose of this subsection is to provide for approval of lot modifications that meet specific criteria and for the waiver of standard platting requirements specified elsewhere in this Chapter. This process is intended to facilitate the further division of previously platted lots, the combination of previously platted lots or for the adjustment of an existing lot line or parcel line by relocation of a common boundary.

b. Lot line adjustments must meet the following criteria to be approved administratively:

- i. Does not involve lots or parcels within more than one zoning classification;
- ii. Is not one lot line adjustment in a series of lot line adjustments proposed for contiguous lots as a way to circumvent the minor subdivision plat process;
- iii. Both of the resulting parcels conform to the minimum lot area, width and depth for the zoning district in which the property is located, or will when combined with an adjacent parcel as part of the same lot modification action; and

iv. The resulting parcels can be legally described with no more than two (2) directional descriptors (e.g. the north 100 feet of the west 200 feet of Lot 1, Block 1, ABC Addition). For lot line adjustments between irregularly-shaped parcels or to transfer an irregularly-shaped portion of a lot to an adjacent land owner, the Director of Community Development may waive this requirement, provided the resulting parcels can be legally described as the original lot number combined with a letter (e.g. Lot 1 would become Lots 1A, 1B and 1C) and a plat of irregular description is prepared, signed by the City Engineer or County Engineer, and recorded with the Burleigh County Recorder's Office.

c. Lot combinations must meet the following criteria to be approved administratively:

- i. Does not involve the vacation of existing easements; and
- ii. Does not involve lots or parcels within more than one zoning classification.

d. Lot splits must meet the following criteria to be approved administratively:

- i. The property is not in a rural residential zoning district (RR or RR5);
- ii. The lot split does not involve the creation of new utility easements;
- iii. The lot split does not require the dedication of public rights-of-way for the purpose of gaining access to the property;
- iv. All resulting parcels conform to the minimum lot area, width and depth for the zoning district in which the property is located;
- v. The resulting parcels can be legally described with no more than two (2) directional descriptors (e.g. the north 100

feet of the west 200 feet of Lot 1, Block 1, ABC Addition). For an irregularly-shaped lot, the Director of Community Development may waive this requirement, provided the resulting parcels can be legally described as the original lot number combined with a letter (e.g. Lot 1 would become Lots 1A, 1B and 1C); a plat of irregular description is prepared, signed by the City Engineer or County Engineer, and recorded with the Burleigh County Recorder's Office; and provided that any line dividing the parcel along a common wall is a straight line from the front property line to the back property line along the common wall; and

vi. The property has not previously been divided through the lot split provisions of this ordinance.

be. Any person having a legal interest in the property may file an application for a lot modification. For an adjustment of an existing lot line, an affidavit or separate signature sheet with signatures from all affected property owners indicating their consent must also be submitted.

ef. An application for approval of a lot modification shall be submitted to the Director of Community Development, along with the applicable fee; a certificate of survey prepared by a registered land surveyor showing the parcel or lot, the proposed modification, and all existing building or structures; legal description of the original parcel, and legal description of the resulting parcel(s) on the proper form. The application shall be accompanied by:

i. The applicable fee;

e. A sketch of the proposed modification with all existing buildings or structures on the property and setbacks from existing or proposed parcel boundaries;

ii. The legal description(s) of the existing lot(s) and/or parcel(s); and

iii. The legal description(s) of the resulting lots(s) and/or parcel(s).

dg. For lot combinations and lot line adjustments in all zoning districts and for lot splits in all zoning districts except RR - Residential and RR5 - Residential, the application will be reviewed by the Director of Community Development, in consultation with the City Engineer other impacted departments, and shall be approved administratively if all requirements are met. No hearing or review by either the Planning and Zoning Commission or City Commission is necessary.

~~e. For lot splits in RR - Residential and RR5 - Residential districts, the application shall be subject to a public hearing before the Planning and Zoning Commission, in accordance with the following procedure:~~

~~i. The application for a lot modification, along with all required items identified herein, shall be submitted to the Director of Community Development by the specified application deadline and on the proper form.~~

~~ii. After receipt of all items required for the application for approval of a lot split, the Director of Community Development shall give notice of a public hearing on the proposed lot split by advertising the time and place of such hearing in a newspaper of general circulation in the City of Bismarck once each week for two (2) consecutive weeks prior to the date of such hearing. Not less than ten (10) days prior to the date of such hearing, all known adjacent property owners within 1,320 feet of the proposed lot split shall be notified of the public hearing by letter. The Director of Community Development shall send a notice of the time and place of such public hearing to the property owner(s) before the date fixed for the hearing. The public hearing may be held at any regular or special meeting of the Planning and Zoning Commission.~~

~~iii. After a public hearing, the Planning Commission may act upon the request for a rural residential lot split. The action of the Planning Commission, together with the reasons therefore, will be entered in the official records of the Planning Commission and the applicant shall be so notified. If the Planning Commission approves the lot split, the applicant shall record a document that legally creates the two new parcels with the Burleigh County Recorder. Failure to record such a document within sixty (60) days shall nullify the approval of the lot split.~~

Ord. 4393, 08-27-91; Ord. 4483, 02-02-93; Ord. 4733, 11-14-95; Ord. 4804, 11-12-96; Ord. 4822, 02-25-97; Ord. 4946, 10-27-98; Ord. 5097, 02-13-01; Ord. 5138, 11-13-01 Ord. 5146, 12-18-01; 5218, 11-26-02l Ord. 5279, 09-23-03; Ord. 5297, 02-24-04; Ord. 5343, 06-22-04; Ord. 5351, 08-24-04; Ord. 5370, 11-23-04; Ord. 5452, 08-23-05; Ord. 5453, 08-23-05; Ord. 12-12-06; Ord. 5728, 05-26-09; Ord. 6015, 10-22-13; Ord. 6197, 04-26-16)

* * * * *

Section 3. Amendment. Section 14-09-06 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Regulations Governing the Subdivision of Land/Improvements is hereby amended and re-enacted to read as follows:

14-09-06. Improvements.

1. Improvements Required within the Corporate Limits. Before issuing a building permit for any structure within the corporate limits, the City will require that the following improvements are either:

a. Constructed and in place;

b. Assured of completion by the deposit with the City of Bismarck of a certified check in an amount sufficient to construct such improvements, the amount to be determined by the City Engineer; or,

c. Assured of completion by the posting of a bond with the City of Bismarck, in an amount sufficient to construct such improvements, the amount to be determined by the City Engineer, and the form and surety of the bond to be approved by the City Attorney.

The improvements required shall be:

1. Street ~~and alley~~ grading.

2. Sanitary sewers, except where, in the opinion of the City Engineer, the provision of sanitary sewers is impractical, in which case individual lots will comply with the size requirements of these regulations and will be provided with approved septic tanks and disposal fields prior to or at the time of construction of any buildings on such lots.

3. Watermains, except where, in the opinion of the City Engineer, connection to a public water supply is impractical, in which case individual lots will comply with the size requirements of these regulations.

4. Monuments, as required by the North Dakota Century Code ~~and Section 14-09-07 of this Chapter.~~

5. Fences shall be provided along the boundary of any subdivision at all points at which the subdivision abuts or adjoins interstate highway right-of-way or any open drainage facility where required ~~by the City Engineer.~~ Said fence shall meet the requirements of the North Dakota Department of Transportation where applicable, and the City Engineer.

2. Procedure for Improvements within the Corporate Limits.

a. No improvements shall be made unless and until all necessary plans, profiles and specifications therefor ~~shall~~ have been submitted to and approved by the City Engineer.

b. At the time such plans, profiles and specifications are submitted for review, the City Engineer shall prepare an estimate of cost for office ~~checking review~~ and field inspection of all improvements. The subdivider shall thereupon deposit with the Director of Finance an amount of money equal to said estimated cost. All work done by the City Engineer in connection with checking, computing and

correcting such plans for improvements and in connection with field inspection of the construction thereof, shall be charged to such deposit. If during the progress of the work, it shall appear that the cost thereof will exceed the amount so deposited, the City Engineer shall notify the subdivider of this fact and shall do no further work in connection with such review or field inspection until the subdivider has deposited the additional amount of money necessary to cover the cost of the work.

c. Upon completion of the work of ~~checking~~ ~~reviewing~~ plans and inspecting the construction of improvements, the City Engineer shall forward to the Director of Finance a statement of the amount of the engineering and inspection costs to be charged against the deposit made by the subdivider. The Director of Finance shall thereupon refund to the subdivider any unexpended balance of such deposits. If such engineering and inspection charges shall for any reason exceed the amount of the deposits, the Director of Finance shall collect the balance due and shall issue a statement that such charges have been paid.

d. At the time of filing an application for a building permit the applicant will submit either (a) a certificate signed by the City Engineer that all required improvements are in place or (b) a certificate signed by the City Engineer that plans, specifications, and profiles for such improvements have been filed with and approved by him, and a certificate signed by the Director of Finance that a certified check or satisfactory performance bond has been posted for completion of improvements, ~~including the City's review and inspection costs~~. Where part of the improvements has been completed, appropriate certification will be filed.

e. Other improvements which may be required by the city after a building permit is issued, ~~but prior to the issuance of a certificate of occupancy,~~ include:

~~1. Crosswalks;~~

~~21.~~ Street ~~and alley~~ paving;

~~3. Sidewalks;~~

42. Curb and gutter;

3. Driveways; and

54. Storm sewers, culverts and bridges~~7.~~

~~6. Street lights.~~

f. Other improvements which may be required by the city after a certificate of occupancy is issued include:

1. Sidewalks; and

2. Street lights.

3. Improvements Required within the Extraterritorial Area.

a. A building permit for any structure within a platted subdivision within the extraterritorial area may not be issued until all improvements described in this section are constructed and accepted by the County Engineer.

b. The improvements required are:

1. The grading of all roadways within the subdivision;

2. The paving of all roadways within the subdivision, unless this requirement was specifically waived by both the Board of City Commissioners and the Board of County Commissioners in conjunction with the approval of the subdivision;

3. The construction and paving of section line roads needed to provide access to the subdivision or the paving of previously constructed section line roads that provide access to the subdivision is required by Burleigh County unless the requirement is specifically waived by the Board of County Commissioners;

34. The installation of the storm water management facilities required to manage storm water in accordance with the approved storm water management plan and submittal of a statement from the consulting engineer that certifies that the facilities were built in accordance with the approved storm water management plan; and

45. The construction of any other required facilities, such as turning lanes or bridges.

c. Improvements that are required within a right-of-way under the jurisdiction of the North Dakota Department of Transportation must be accepted by the NDDOT District Engineer.

d. The completion of required off-site improvements, such as the construction of turning lanes or the paving of section line roadways, may be delayed with the submittal of an assurance of completion.

4. Procedure for Improvements within the Extraterritorial Area.

a. No improvements shall be made unless and until all necessary plans, profiles and specifications therefor shall have been submitted to the County Planner and approved by the County Engineer in accordance with the Burleigh County Highway Department Subdivision Road Design and Construction Policy.

b. Before any improvements are installed, the developer shall submit a County Development Permit Application to the County Planner. Once the Development Permit Application has been reviewed and approved by the County Engineer, the developer may proceed with the construction of the road subgrades within the subdivision.

c. Upon satisfactory completion of all required roadways, the County Engineer will notify the City in writing.

(Ord. 4914, 06-09-98; Ord. 5477, 12-13-05; Ord. 6153, 08-11-15)

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. Effective Date. This ordinance shall take effect following final passage, adoption and publication.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 12
September 27, 2017

Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2017-010

10Project Summary

Title:	Special Uses – Asphalt and Concrete Production Facilities
Status:	Planning & Zoning Commission – Public Hearing
Project Contact:	Kim L. Lee, AICP, Planning Manager
Sections Amended:	Sections 14-03-08 (Special Uses)
Request:	Amend the Zoning Ordinance to reduce the separation distance for a temporary concrete production facility in the A – Agricultural zoning district.

Staff Analysis

The Planning and Zoning Commission scheduled a public hearing for the proposed zoning ordinance text amendment at their meeting of August 23, 2017.

Asphalt production facilities (both temporary and permanent) are allowed as a special use permit in the MA – Industrial and A – Agricultural zoning districts and concrete production facilities (temporary only) are allowed as a special use permit in the A – Agricultural zoning district. Both types of facilities are subject to a ½ mile separation distance from residential zoning districts. This ½ mile separation requirement is reasonable for an asphalt production facility because of the associated odors, but it seems excessive for a temporary concrete production facility. The proposed amendment keeps the separation of ½ mile for asphalt production facilities, but reduces it to 660 feet (1/8 mile) for temporary concrete production facilities.

Required Findings of Fact (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;

2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning ordinance text amendment for Sections 14-03-08 (Special Uses) of the City Code of Ordinances, as outlined in the attached draft ordinance.

Attachments

1. Draft zoning ordinance text amendment

Staff report prepared by: Kim L. Lee, AICP, Planning Manager
701-355-1846 | klee@bismarcknd.gov

CITY OF BISMARCK

Ordinance No. XXXX

First Reading _____

Second Reading _____

Final Passage and Adoption _____

Publication Date _____

AN ORDINANCE TO AMEND AND RE-ENACT SECTION 14-03-08 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO SPECIAL USES ASPHALT AND CONCRETE PRODUCTION FACILITIES.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-03-08 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Special Uses and Asphalt and Concrete Production Facilities is hereby amended and re-enacted to read as follows:

14-03-08. Special Uses.

* * * * *

4. Permanent uses (planning and zoning commission approval). The city planning and zoning commission is authorized to grant special use permits for the following uses:

* * * * *

t. Asphalt and Concrete Production Facilities. Asphalt production facilities, either permanent or temporary, may be permitted in any A or MA district, and temporary concrete production facilities, —either permanent or temporary, may be permitted in any A district as a special use provided:

1. The site is located at least 1/2 mile from any residential principal structure or any residentially zoned property for an asphalt

production facility, either permanent or temporary, and at least 660 feet from any residential principal structure residentially zoned property for a temporary concrete production facility.

2. A site plan is submitted showing the overall dimensions of the site, the location of specific activities, fences, parking areas and access roads.

3. A written narrative is submitted describing the operation of the facility, including fugitive dust management, run-off control, and spill containment.

4. A permit to operate is issued by the North Dakota Department of Health prior to operation of the facility, if required.

5. The County Engineer and/or City Engineer, depending on location of the site, has approved the proposed access (ingress/egress) for the operation.

6. For temporary asphalt or concrete production facilities, the following additional provisions apply:

a) The temporary asphalt or concrete production facility is for a specific construction project and not for general sale of product to the public.

b) At the time of initial consideration, the applicant provides a detailed written explanation of the length of time needed for the use.

c) The use is for a specified period of time, tied to the duration of the construction project, which shall be clearly stated in the approval of the temporary use permit.

* * * * *

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be

invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance shall take effect following final passage, adoption and publication.

DRAFT

BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
August 23, 2017

The Bismarck Planning & Zoning Commission met on August 23, 2017, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chairman Yeager presided.

Commissioners present were Tom Atkinson, Susan Axvig, Brian Bitner, Mike Donahue, Vernon Laning, Doug Lee, Gabe Schell, Mike Seminary, Lisa Waldoch and Wayne Yeager.

Commissioner Mike Schwartz was absent.

Staff members present were Carl Hokenstad – Director of Community Development, Will Hutchings – Planner, Jenny Wollmuth – Planner, Daniel Nairn – Planner, Brady Blaskowski – Building Official, Hilary Balzum – Community Development Administrative Assistant, Charlie Whitman – City Attorney and Jason Hammes – Assistant City Attorney.

MINUTES

Chairman Yeager called for consideration of the minutes of the July 26, 2017 meeting.

MOTION: Commissioner Lee made a motion to approve the minutes of the July 26, 2017 meeting, as presented. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Laning, Lee, Schell, Seminary, Waldoch and Yeager voting in favor of the motion.

CONSIDERATION

- A. LOT 5 AND THE NORTH 50 FEET OF LOT 6, BLOCK 1, GOMKE ESTATES – ZONING CHANGE**
- B. MULTIPLE SECTIONS RELATING TO CONTEXTUAL FRONT YARD SETBACKS IN RESIDENTIAL ZONING DISTRICTS – ZONING ORDINANCE TEXT AMENDMENT**
- C. SECTION 14-03-08 RELATING TO SPECIAL USES/OFF-PREMISE ADVERTISING SIGNS – ZONING ORDINANCE TEXT AMENDMENT**
- D. SECTIONS 14-09-03 (DEFINITIONS), 14-09-04 (PROCEDURE) AND 14-09-06 (IMPROVEMENTS) RELATING TO REGULATIONS GOVERNING THE SUBDIVISION OF LAND – ZONING ORDINANCE TEXT AMENDMENT**
- E. SECTION 14-03-08 RELATING TO SPECIAL USES/ASPHALT AND CONCRETE PRODUCTION FACILITIES – ZONING ORDINANCE TEXT AMENDMENT**

Chairman Yeager called for consideration of the following consent agenda items:

- A. Lot 5 and the North 50 feet of Lot 6, Block 1, Gomke Estates – Zoning Change
- B. Multiple Sections Relating to Contextual Front Yard Setbacks in Residential Zoning Districts – Zoning Ordinance Text Amendment
- C. Section 14-03-08 Relating to Special Uses/Off-Premise Advertising Signs – Zoning Ordinance Text Amendment
- D. Sections 14-09-03 (Definitions), 14-09-04 (Procedure) and 14-09-06 (Improvements) Relating to Regulations Governing the Subdivision of Land – Zoning Ordinance Text Amendment
- E. Section 14-03-08 Relating to Special Uses/Asphalt and Concrete Production Facilities – Zoning Ordinance Text Amendment

MOTION: Based on the findings contained in the staff reports, Commissioner Lee made a motion to approve consent agenda items A, B, C, D and E, calling for public hearings on the items as recommended by staff. Commissioner Waldoch seconded the motion and it was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Laning, Lee, Schell, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING CHANGE AND MINOR SUBDIVISION FINAL PLAT
SOUTH MEADOWS ADDITION SECOND REPLAT**

Chairman Yeager called for the public hearing on the minor subdivision final plat and the zoning change from the RM15-Residential zoning district to the R10-Residential zoning district for South Meadows Addition Second Replat. The proposed plat is 19 lots in one block on 4.93 acres and is located in south Bismarck, south of West Burleigh Avenue and on the west side of South Washington Street (a replat of Lots 16-20, Block 4, South Meadows Addition).

Mr. Nairn gave an overview of the requests, including the following findings related to land use for the zoning change:

1. The proposed zoning change generally is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner.

6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Mr. Nairn then gave the findings related to land use for the minor subdivision final plat:

1. All technical requirements for approval of a minor subdivision final plat have been met.
2. The requirement to provide a stormwater management plan has been waived by the City Engineer.
3. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
5. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Mr. Nairn said, based on the findings contained in the staff report, staff recommends approval of the zoning change from the RM15 – Residential zoning district to the R10 – Residential zoning district and the minor subdivision final plat for South Meadows Addition Second Replat, with the following conditions:

1. Roadway improvements of Meridian Court meet all Fire Apparatus Access Roadway Standards.
2. Restrictive covenants are recorded in conjunction with the plat to create a homeowners' association to maintain the access easement in Lot 19, Block 1, and the covenants do not provide the option to transfer this lot to the City.

Commissioner Seminary asked what the discussion was behind making it possible for the owner of this property to vary from the cul-de-sac requirements.

Mr. Nairn said they submitted that request in a letter and factors such as there not being plans for a future through-street in that location, the existence of an electrical substation directly to the south and it also being the end of that sanitary sewer system because of the shallow depth were considered. He said staff feels this is an adequate location for a private cul-de-sac.

Commissioner Seminary asked if staff is open to private cul-de-sacs in the future with similar developments. Mr. Nairn said yes, staff would support something similar to this in the future.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

Commissioner Seminary said he asked the question regarding the cul-de-sac because he can recall discussions held in the past regarding the implementation of them in the City. He said he feels they can be very attractive for subdivisions and because this request is unique, he wanted it explained for the record. He said cul-de-sacs do make sense in certain conditions.

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to approve the zoning change from the RM15 – Residential zoning district to the R10 – Residential zoning district and the minor subdivision final plat for South Meadows Addition Second Replat, with the following conditions: 1. Roadway improvements of Meridian Court meet all Fire Apparatus Access Roadway Standards; and 2. Restrictive covenants are recorded in conjunction with the plat to create a homeowners' association to maintain the access easement in Lot 19, Block 1, and the covenants do not provide the option to transfer this lot to the City. Commissioner Lee seconded the motion and the request was unanimously approved with Mr. Zent and Commissioners Atkinson, Axvig, Bitner, Donahue, Laning, Lee, Schell, Seminary, Waldoch and Yeager voting in favor of the motion.

PUBLIC HEARING – SPECIAL USE PERMIT (CHILD CARE CENTER) LOT 1, BLOCK 1, BRAUER'S ADDITION

Chairman Yeager called for the public hearing on a request for a special use permit to operate a child care center in a R5 Residential zoning district on Lot 1, Block 2, Brauer's Addition (517 East Turnpike Avenue). The property is located in central Bismarck, between North 5th Street and North 7th Street, along the south side of East Turnpike Avenue.

Mr. Hutchings gave an overview of the request, including the following findings related to land use:

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
2. The proposed special use is compatible with adjacent land uses and zoning.
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.

4. Adequate public facilities and services are in place or would be provided at the time of development.
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic.
7. The proposed special use permit is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed special use would not adversely affect the public health, safety and general welfare.

Mr. Hutchings said, based on the findings contained in the staff report, staff recommends approval of the special use permit to allow the operation of a child care center within an existing religious facility on Lot 1, Block 2, Brauer's Addition with the following condition:

1. The development of the site must generally conform to the site plan submitted with the application.

Commissioner Laning said comments provided from a resident state this would be a temporary use and asked if that is correct.

Mr. Hutchings said the applicant is present and can define their plans. He then explained that a special use permit for a child care center is considered permanent.

Commissioner Laning asked what would happen if the use of the child care center ends. Mr. Hutchings said if a new use takes its place the special use permit would cease and any future requests for a child care center at this location would have to obtain a new special use permit.

Chairman Yeager opened the public hearing.

A written comment in support of the request is attached as Exhibit A.

There being no further comments, Chairman Yeager closed the public hearing.

Commissioner Schell asked how long the special use permit would be good for in the event the child care center services are interrupted. Mr. Hutchings said special use permits are not length specific. He added that a change in the use to something other than a child care center at this location would terminate the special use. He added that a new special use permit would then need to be obtained in the event another child care center wants to use that space.

Chairman Yeager said any child care center would have to comply with State requirements, such as the number of children allowed, as well.

MOTION: Based on the findings contained in the staff report, Commissioner Lee made a motion to approve the special use permit to allow the operation of a child care center within an existing religious facility on Lot 1, Block 2, Brauer's Addition with the following condition: 1. The development of the site must generally conform to the site plan submitted with the application. Commissioner Waldoch seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Laning, Lee, Schell, Seminary, Waldoch and Yeager voting in favor of the motion.

**PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT
SECTIONS 14-03-06 (INCIDENTAL USES), 14-04-01 (RR RESIDENTIAL
DISTRICT) AND 14-04-01.1 (RR5 RESIDENTIAL DISTRICT) AND 14-04-17 (A
AGRICULTURAL DISTRICT) RELATING TO ACCESSORY BUILDINGS**

Chairman Yeager called for the public hearing on a zoning ordinance text amendment relating to accessory buildings in RR-Residential, RR5-Residential and A-Agricultural zoning districts.

Ms. Wollmuth explained that over the past few years, there has been a demand for increased wall heights for accessory buildings in the rural zoning districts (RR, RR5 and A), adding that an increased wall height allows a higher clearance to accommodate taller vehicles, such as recreational vehicles. She said in order to maintain a 14-foot wall height, staff has seen residents use scissor trusses to increase the clearance height inside the structure and also has seen residents build a structure with a greater overhang and bring the soffit back to create the appearance of a 14-foot wall on the outside, while maintaining 16 feet of clearance on the inside. She explained that with the proposed increase in wall height, the maximum building height will remain at 25 feet.

Ms. Wollmuth then gave the following findings:

1. The proposed text amendment would not adversely affect the public health, safety or general welfare.
2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance.
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Wollmuth said, based on the findings in the staff report, staff recommends approval of the zoning ordinance text amendment for Sections 14-03-06 (Incidental Uses), 14-04-01 (RR Residential District), 14-04-01.1 (RR5 Residential District) and 14-04-17 (A Agricultural District) of the City Code of Ordinances, as presented.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Bitner made a motion to recommend approval of the zoning ordinance text amendment for Sections 14-03-06 (Incidental Uses), 14-04-01 (RR Residential District), 14-04-01.1 (RR5 Residential District) and 14-04-17 (A Agricultural District) of the City Code of Ordinances, as presented. Commissioner Laning seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Laning, Lee, Schell, Seminary, Waldoch and Yeager voting in favor of the motion.

OTHER BUSINESS

There was no other business to discuss at this time.

ADJOURNMENT

There being no further business, Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 5:17 p.m. to meet again on September 27, 2017.

Respectfully submitted,

Hilary Balzum
Recording Secretary

Wayne Yeager
Chairman

From: [Planning - General Mailbox](#)
To: [Carl Hokenstad](#); [Daniel Nairn](#); [Hilary Balzum](#); [Jenny Wollmuth](#); [Kim Lee](#); [William Hutchings](#)
Subject: FW: Bethel Lutheran Church - Child care special use permit
Date: Tuesday, August 15, 2017 9:46:12 AM

From: Paul Klebe [mailto:]
Sent: Monday, August 14, 2017 5:33 PM
To: Planning - General Mailbox <planning@bismarcknd.gov>
Subject: Bethel Lutheran Church - Child care special use permit

My name is Paul Klebe, I live at 2025 N 5th St., Bismarck and I am also a member of Bethel Lutheran Church. I wish to give my whole hearted support to granting a special use permit for a child care center to Bethel Lutheran Church. While I do not have children in in this age group, I am well aware that that good quality child care is in short supply in the city of Bismarck. Since this is a temporary permit to relocate an existing child care center while the existing center is remodeled, not granting it would further aggravate the tight supply of child care in this city. This site has good access to this location by 4th Street, Interstate Ave, Capital Ave, and State Street. The layout of the roads and parking lots on site should provide safe access for small children. I urge that the Bismarck Planning and Zoning Commission grant this request.

Paul Klebe

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 8/2017

*****City*****

*****ETA*****

	8/2017		8/2016		8/2017		8/2016	
Census Code	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
SINGLE FAMILY DETACHED	14	\$2,748,957.45	36	\$7,216,150.25	6	\$1,862,264.35	3	\$924,921.93
ROWHOUSE (2) 1-HR FIRE SEPARATION	2	\$307,939.50	12	\$2,200,852.00	0	\$0.00	0	\$0.00
MANUFACTURED HOMES	2	\$0.00	4	\$0.00	0	\$0.00	0	\$0.00
OTHER NEW	0	\$0.00	2	\$177,920.70	0	\$0.00	0	\$0.00
ROOM ADDITIONS	2	\$99,275.50	2	\$31,428.00	1	\$23,850.00	3	\$96,480.00
RESIDENTIAL GARAGES	6	\$63,616.00	7	\$73,442.00	9	\$265,712.00	9	\$236,906.00
DECKS PORCHES & COVERED PATIOS	32	\$106,450.00	23	\$91,898.00	4	\$23,970.00	5	\$26,970.00
SWIMMING POOLS & SPAS	0	\$0.00	0	\$0.00	1	\$75,000.00	2	\$105,792.00
OTHER	4	\$8,700.00	9	\$171,838.00	3	\$79,000.00	1	\$3,500.00
HOME OCCUPATION	1	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
STORAGE SHEDS	6	\$12,720.00	2	\$5,040.00	0	\$0.00	3	\$89,064.00
BASEMENT FINISH	13	\$60,614.75	6	\$30,523.50	2	\$8,787.50	5	\$23,256.00
COMMERCIAL BUILDINGS	24	\$17,234,242.00	20	\$43,050,234.00	0	\$0.00	0	\$0.00
RESIDENTIAL	2	\$0.00	3	\$0.00	0	\$0.00	0	\$0.00
COMMERCIAL	1	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
MISC TEMPORARY STRUCTURES	3	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	10	\$110,450.00	11	\$128,827.71	0	\$0.00	0	\$0.00
SIGN ALTERATION	1	\$2,500.00	0	\$0.00	0	\$0.00	0	\$0.00
Total	123	\$20,755,465.20	137	\$53,178,154.16	26	\$2,338,583.85	31	\$1,506,889.93

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 8/2017

*****City*****

*****ETA*****

	8/2017		8/2016		8/2017		8/2016	
Trade Permit Type	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
BUILDING ELECTRIC	97	\$22,500.00	4	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC ALTERATION	0	\$0.00	30	\$45,000.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC NEW RESIDENTIAL	0	\$0.00	50	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC SERVICE UPGRADE	0	\$0.00	14	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL ACCESSORY	0	\$0.00	4	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL MOBILE HOME	1	\$0.00	0	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL NEW COMMERCIAL	0	\$0.00	11	\$0.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL	122	\$979,064.25	0	\$0.00	15	\$168,829.00	1	\$29,000.00
BUILDING MECHANICAL ALTERATION	0	\$0.00	10	\$65,554.00	0	\$0.00	9	\$24,346.00
BUILDING MECHANICAL FIREPLACE	0	\$0.00	13	\$41,000.00	0	\$0.00	2	\$6,500.00
BUILDING MECHANICAL HVAC APPLIANCE	0	\$0.00	44	\$219,546.14	0	\$0.00	5	\$41,980.00
BUILDING MECHANICAL NEW CONSTRUCTION	0	\$0.00	48	\$674,964.00	0	\$0.00	4	\$16,000.00
BUILDING MECHANICAL WATER HEATER	0	\$0.00	12	\$31,901.00	0	\$0.00	2	\$2,701.00
BUILDING PLUMBING	36	\$573,246.00	59	\$1,269,176.00	20	\$181,100.00	11	\$126,970.00
BUILDING SEPTIC	1	\$0.00	0	\$0.00	4	\$0.00	6	\$0.00
Total	257	\$1,574,810.25	299	\$2,347,141.14	39	\$349,929.00	40	\$247,497.00

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 8/2017

	*****City*****		*****ETA*****	
	8/2017	8/2016	8/2017	8/2016
Living Units	Units	Units	Units	Units
OTHER NEW	0	0	0	0
MANUFACTURED HOMES	2	4	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	2	12	0	0
SINGLE FAMILY DETACHED	14	36	6	3
Total	18	52	6	3

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 8/2017

*****City*****

*****ETA*****

	8/2017		8/2016		8/2017		8/2016	
Census Code	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
SINGLE FAMILY DETACHED	127	\$25,112,984.54	156	\$31,918,083.92	30	\$7,856,844.98	22	\$5,853,355.68
ROWHOUSE (2) 1-HR FIRE SEPARATION	86	\$14,831,140.20	113	\$17,325,691.50	0	\$0.00	0	\$0.00
ROWHOUSE	0	\$0.00	6	\$576,000.00	0	\$0.00	0	\$0.00
2-UNIT DUPLEX OR CONDO	0	\$0.00	6	\$1,050,342.00	0	\$0.00	0	\$0.00
FIVE OR MORE FAMILY	0	\$0.00	2	\$8,036,000.00	0	\$0.00	0	\$0.00
MANUFACTURED HOMES	27	\$0.00	35	\$0.00	0	\$0.00	0	\$0.00
MOBILE HOME	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
MOBILE HOME EXTRAS	0	\$0.00	1	\$1,800.00	0	\$0.00	0	\$0.00
HOTELS	0	\$0.00	1	\$2,500.00	0	\$0.00	0	\$0.00
NON-STRUCTURAL DEVELOPMENT	2	\$0.00	4	\$110,000.00	0	\$0.00	0	\$0.00
AMUSEMENT & RECREATION	0	\$0.00	1	\$125,750.00	0	\$0.00	0	\$0.00
CHURCHES & RELIGIOUS	0	\$0.00	1	\$99,622.00	0	\$0.00	0	\$0.00
INDUSTRIAL BUILDINGS	1	\$2,500,000.00	16	\$3,008,830.00	0	\$0.00	0	\$0.00
HOSPITALS & INSTITUTIONAL	0	\$0.00	4	\$155,000.00	0	\$0.00	0	\$0.00
OFFICE; BANK; & PROFESSIONAL BUILDINGS	1	\$70,565.00	5	\$3,280,139.00	0	\$0.00	0	\$0.00
SCHOOLS & EDUCATIONAL	1	\$6,847,730.00	2	\$3,265,847.00	0	\$0.00	1	\$18,000,000.00
RETAIL SALES	1	\$55,000.00	5	\$2,488,600.00	0	\$0.00	0	\$0.00
OTHER NEW	3	\$3,077,983.00	3	\$352,920.70	0	\$0.00	0	\$0.00
ROOM ADDITIONS	15	\$411,644.88	21	\$816,421.50	13	\$849,775.00	16	\$522,245.75
RESIDENTIAL GARAGES	61	\$547,496.00	51	\$611,704.02	65	\$1,522,324.00	57	\$1,269,836.00
DECKS PORCHES & COVERED PATIOS	166	\$513,820.00	165	\$589,366.02	26	\$116,377.50	23	\$93,435.00
SWIMMING POOLS & SPAS	5	\$307,420.85	5	\$353,056.70	5	\$417,331.00	5	\$272,410.00
OTHER	49	\$1,139,492.34	50	\$1,298,921.48	12	\$515,410.08	8	\$219,100.00
HOME OCCUPATION	7	\$0.00	2	\$0.00	0	\$0.00	0	\$0.00

**PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 8/2017**

*****City*****

*****ETA*****

	8/2017		8/2016		8/2017		8/2016	
Census Code	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
STORAGE SHEDS	17	\$43,560.00	19	\$57,638.00	3	\$8,772.00	9	\$150,264.00
BASEMENT FINISH	100	\$463,773.50	112	\$556,976.50	24	\$159,944.00	34	\$188,824.85
COMMERCIAL BUILDINGS	133	\$71,850,255.69	143	\$59,966,850.00	1	\$1,482,274.00	10	\$730,000.00
OFFICE BUILDINGS	1	\$15,000.00	1	\$7,500.00	0	\$0.00	0	\$0.00
PUBLIC BUILDING	1	\$350,000.00	0	\$0.00	0	\$0.00	0	\$0.00
MULTI-FAMILY TO SINGLE-FAMILY	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
RESIDENTIAL	5	\$0.00	4	\$0.00	0	\$0.00	0	\$0.00
COMMERCIAL	6	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
FIREWORKS SALES	0	\$0.00	0	\$0.00	11	\$0.00	13	\$0.00
NURSERY STOCK SALES	6	\$0.00	5	\$0.00	0	\$0.00	0	\$0.00
MISC TEMPORARY STRUCTURES	9	\$0.00	14	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	60	\$628,520.29	72	\$615,138.55	0	\$0.00	0	\$0.00
SIGN ALTERATION	6	\$57,487.00	11	\$128,349.04	0	\$0.00	0	\$0.00
Total	896	\$128,823,873.29	1039	\$136,799,047.93	190	\$12,929,052.56	198	\$27,299,471.28

PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 8/2017

*****City*****

*****ETA*****

	8/2017		8/2016		8/2017		8/2016	
Permit Type	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
BUILDING ELECTRIC	701	\$25,100.00	20	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC ALTERATION	0	\$0.00	452	\$661,651.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC NEW RESIDENTIAL	0	\$0.00	260	\$7,000.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC SERVICE UPGRADE	2	\$0.00	157	\$35.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL ACCESSORY	0	\$0.00	22	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL ELEVATOR	0	\$0.00	15	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL HVAC APPLIANCE	0	\$0.00	15	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL NEW COMMERCIAL	0	\$0.00	111	\$276,870.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL POOL	0	\$0.00	6	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL SIGN	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL	969	\$9,460,624.23	5	\$145,125.00	109	\$866,979.13	1	\$29,000.00
BUILDING MECHANICAL ALTERATION	0	\$0.00	88	\$766,029.00	0	\$0.00	21	\$3,518,779.00
BUILDING MECHANICAL FIREPLACE	0	\$0.00	94	\$308,292.00	0	\$0.00	17	\$61,200.00
BUILDING MECHANICAL HVAC APPLIANCE	0	\$0.00	266	\$1,665,726.34	0	\$0.00	27	\$205,301.00
BUILDING MECHANICAL NEW CONSTRUCTION	0	\$0.00	367	\$12,386,043.55	0	\$0.00	48	\$1,385,895.00
BUILDING MECHANICAL OTHER	0	\$0.00	2	\$2,453.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL WATER HEATER	0	\$0.00	209	\$309,209.69	0	\$0.00	17	\$26,800.00
BUILDING PLUMBING	295	\$7,879,895.00	401	\$9,813,654.53	56	\$559,632.00	49	\$971,396.00
BUILDING SEPTIC	2	\$12,900.00	1	\$0.00	15	\$0.00	25	\$0.00
BUILDING SEPTIC EVALUATION	0	\$0.00	0	\$0.00	0	\$0.00	1	\$0.00
Total	1969	\$17,378,519.23	2492	\$26,342,089.11	180	\$1,426,611.13	206	\$6,198,371.00

**PERMIT ACTIVITY REPORT - YTD
DATE SELECTION 8/2017**

*****City*****

*****ETA*****

	8/2017	8/2016	8/2017	8/2016
Living Units	Units	Units	Units	Units
HOTELS	0	111	0	0
FIVE OR MORE FAMILY	0	30	0	0
OTHER NEW	0	0	0	0
ROWHOUSE	0	6	0	0
FIVE OR MORE FAMILY	0	48	0	0
OTHER NEW	0	0	0	0
MANUFACTURED HOMES	27	33	0	0
2-UNIT DUPLEX OR CONDO	0	12	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	84	112	0	0
SINGLE FAMILY DETACHED	123	156	29	22
Total	234	508	29	22